

The Second Division consisted of the regular members and in addition Referee Edward M. Hogan when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen & Oilers.
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. That in violation of the current Agreement; Mr. William Rundles, Laborer, Chicago, Illinois, was unjustly dismissed from service of the Carrier following hearing held on date of January 19, 1981.
2. That accordingly, the Chicago & North Western Transportation Company be ordered to reinstate Mr. William Rundles to service with seniority rights unimpaired.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was dismissed from the service of the Carrier following a formal investigation on the charges of sleeping while on duty. In addition to the Shop Superintendent who had observed the Claimant sleeping while on duty, Claimant at the investigation, admitted sleeping.

Claimant contends that the dismissal was an unjust action, that there was an abuse of managerial discretion, and that the evidence does not support the findings. On each of the contentions, we disagree.

There can be no disagreement that the Carrier's Rule 23 (General Regulations and Safety Rules) is quite explicit:

"Employees must not sleep while on duty. Lying down or in a reclining position with eyes closed or covered will be considered as sleeping."

In our examination of the record, we find that Claimant received a full and fair hearing and that there is ample credible evidence to sustain the findings as adduced at the investigation. Furthermore, in light of Claimant's very recent (four months prior) 45-day suspension for the exact same offense, we find that the measure of discipline as assessed in this case to be fully

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reasonable and warranted. (See Second Division Awards 9184, 9190, 8712, 8537, 8212, 8529, 8861, 8886, 9039 and 9260).

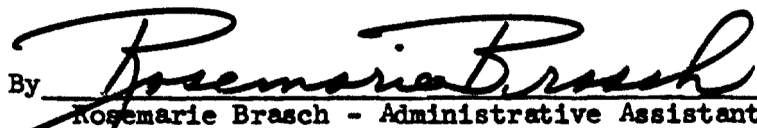
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **Second** Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 5th day of January, 1983.