

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division of TCU
(
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM:

1. That as a result of an investigation held on December 10, 1987, Carmen J. Franco and D. Woodrich were assessed a record reprimand. Said reprimand is unfair, unjust, unreasonable, arbitrary, capricious, an abuse of managerial discretion, and in violation of Rule 20 of the current working Agreement.

2. That the Belt Railway Company of Chicago be ordered to remove the record reprimands from the Carmen's personal files and to compensate them for all time lost due to attending the investigation.

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 employes involved in this dispute are respectively carrier and employes 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.

Claimants were employed by the Carrier as Carmen at Chicago, Illinois.

On November 18, 1987, the Carrier notified the Claimants to appear for a formal Investigation in connection with the following charges:

". . . to develop the facts and determine your responsibility, if any, for your reported failure to bad order UTLX 24700 for R2 thin flange during your inspection of Wisconsin Central train on Track No. 2 in the West Receiving yard at approximately 5:50 a.m., November 13, 1987. This resulted in a delay to UTLX 24700 as car was set out of CSXT 647 on November 13, 1987."

After two postponements, the Hearing was held on December 10, 1987. On December 18, 1987, the Carrier notified the Claimants that they had been found guilty of the charges brought against them and were assessed discipline of a reprimand. The Organization thereafter filed a Claim challenging their discipline.

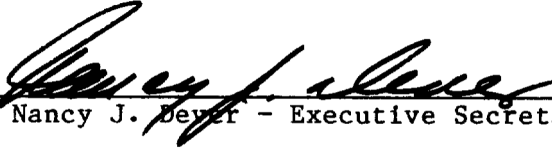
This Board has reviewed the evidence and testimony, and we find that there is not sufficient evidence in the record to support the finding that the Claimants were guilty of any rule violations.

The Carrier bears the burden of proof in all discipline cases. Although the two Claimants were charged with performing inspections and one of the cars that they were to inspect came up with a major problem, there is not sufficient proof that the two Claimants were in violation of the rules requiring that they "be alert and devote themselves exclusively to the Company's service" or that they were in any way "indifferent to duty." In order to impose discipline, a carrier must meet a burden of proof with sufficient evidence. In this case, the Carrier did not do so. Therefore, the Claim must be sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 28th day of November 1990.