

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**Second Division**

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**  
**DENVER & RIO GRANDE WESTERN RAILROAD COMPANY**

**DISPUTE.**—Request for reinstatement of John W. Day, shop laborer, Burnham shops, Denver, Colorado, with seniority unimpaired, and payment for time lost, less any amount of money he may have earned in other employment.

**POSITION OF EMPLOYEES.**—Position of the employees is that John W. Day was unjustly removed from the service of the company on October 28, 1930.

**POSITION OF MANAGEMENT.**—It is the contention of the carrier in this case that Shop Laborer John W. Day was dismissed for cause.

**FINDINGS.**—The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds:

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.

The parties to said dispute were given due notice of hearing thereon.

John W. Day entered the service of the carrier September 27, 1918; he was discharged October 28, 1930.

The cause of dismissal: "not being on the job" for a period of two or three minutes.

The dispute was submitted to the system board of adjustment, and on April 15, 1931, it was remanded to the interested parties for further conference. These conferences failed to adjust the dispute, and it was again submitted to the system board of adjustment; on November 26, 1934, the board announced it was unable to reach a decision. The dispute was then filed as an *ex parte* submission with the National Railroad Adjustment Board, the system board of adjustment having been abolished by agreement.

The carrier was justified in administering discipline, but the discipline administered in this particular case should be modified.

**AWARD**

John W. Day shall be reinstated with full seniority rights, but claim for time lost is denied.

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

Attest: J. L. MINDLING  
*Secretary*

Dated at Chicago, Illinois, this 24th day of April, 1935.