

NATIONAL RAILROAD ADJUSTMENT BOARD

Second Division

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYEES' DEPARTMENT,
A. F. OF L. (CARMEN)**

CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES.—Pay for time lost by C. S. Singleton.
POSITION OF EMPLOYEES.—The records of the investigation do not substantiate the allegations made by the carrier, to the effect that in train #998 on October 10, 1933, tank car NATX 1032 had air brakes cut out passing through El Reno, and that the finding of an air angle cock partly closed in train #991 October 11, 1933, at Gary, Oklahoma, was due to improper inspection on the part of Mr. Singleton in the train yards at El Reno, Oklahoma.

It is the contention of the employees that Mr. Singleton did properly perform his duties and that he is a competent qualified inspector and that if such conditions did exist (such as the air angle cock being partly closed on train #991) it was caused after Mr. Singleton had worked this train by one of the many transients who were on the train in climbing off and on. As to the claim by the carrier of car NATX 1032 having the air brakes cut out, there is no record of such condition existing on this car passing through El Reno.

The employees further contend that the real reason for Mr. Singleton being dismissed from service was because of his affiliations with the Brotherhood Railway Carmen of America, and that those responsible for his suspension were prejudiced and unfair towards Mr. Singleton because of his joining the labor organization of his own choosing and being an officer of that organization. At the time of the investigation the foreman questioned him on his labor affiliations. Singleton at no time discussed his case on a leniency basis with the management, nor did he authorize any representative to handle his case on any such basis.

Rule 34, last paragraph, of the shopmen's agreement, dated 1929, states:

"If it is found that an employe has been unjustly suspended or dismissed from the service, such employe shall be reinstated with his seniority rights unimpaired and compensated for the wage loss, if any, resulting in the suspension or dismissal."

POSITION OF CARRIER.—C. S. Singleton, carman inspector, El Reno, Oklahoma, was dismissed by the carrier October 30, 1933. Mr. Singleton was reinstated to his former position with full seniority rights on April 2, 1934.

C. S. Singleton was released from service of this carrier on October 30, 1933, account failure to properly perform his duties in inspecting and testing air on train #998, October 10, 1933, and train #991, October 11, 1933. Singleton's dismissal was warranted on the basis of evidence developed in investigation held at El Reno on October 21, 1933.

Mr. Singleton was inspector of train #998 out of El Reno on October 10, and as shown in investigation, NATX 1032, a car of company fuel oil moving from El Reno to Shawnee, was found at Oklahoma City, Oklahoma, with the air cut out, and had the appearance of having been cut out for some time. The train crews handling this car were interviewed and advised the air had not been cut out by them nor was it cut out by the carmen at Oklahoma City.

Mr. Singleton was also the inspector of train #991 out of El Reno on October 11, 1933. The conductor of this train reported that on arrival at Ft. Reno, 3.9 miles from El Reno, he found there was little, if any, air coming into caboose gauge and angle cock was found turned on the third car from the rear, on the east end of the car. The angle cock was completely closed and the conductor expressed the opinion it had been closed when the train left El Reno. The conductor of train #901 states his caboose was open at El

Reno and no reason why inspector could not have looked at air gauge in caboose had he cared to do so. Singleton makes the statement that he tried the air from angle cock on rear of caboose but did not think to inspect or notice the gauge, which is placed in the caboose for the express purpose of registering train line pressure.

Mr. Singleton was reinstated in the service without pay for time lost but with full restoration of his seniority rights February 26, 1934, on a leniency basis.

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 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.

This is not the usual case of discipline by the ordinary employer. We agree that railroad management must accept full responsibility for its employes and their fair and just discipline. Where, however, there is an unusual situation existing, great care should be taken to protect the rights of employes who are dependent upon their wages for their livelihood, and who may be dealt with in arbitrary manner in a time of stress.

The record in this case is long and filled with testimony relating to sharply disputed issues of fact. We feel it would serve no useful purpose here to review the situation as it existed at the time of dismissal, or to attempt to reconcile the testimony of men who differed on questions that were not directly related to the work which was then being performed.

The issue before us in this case is a dispute similar in nature to those disposed of in Awards Nos. 22 and 23 of this Division.

C. S. Singleton was unjustly dismissed October 28, 1933.

AWARD

C. S. Singleton, carman inspector, El Reno, Oklahoma, shall be paid for time lost from October 28, 1933, to April 2, 1934.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING

Secretary

Dated at Chicago, Illinois, this 21st day of May, 1936.