

Award No. 4629

Docket No. 4638

2-C&NW-EW-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 12, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Electrical Workers)**

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement Carrier improperly suspended Electrician D. C. Blake from the service on June 12, 1963, and unjustly dismissed him following investigation held June 14, 1963.

2. That accordingly the Carrier be ordered to restore Electrician D. C. Blake to service with his seniority rights unimpaired and

a. Compensate him for all time lost as a result of the aforesaid violation.

b. Pay all premiums on his Insurance, Health & Welfare, and any other benefits to which he would have been entitled to, had he remained in service.

EMPLOYEES' STATEMENT OF FACTS: Electrician D. C. Blake, hereinafter referred to as the claimant, was employed as an electrician by the Chicago & North Western Railway Company, hereinafter referred to as the carrier, in its Green Bay diesel shop, Green Bay, Wisconsin, with hours of assignment 8:00 A. M. to 4:00 P. M.

Under date of June 12, 1963, carrier's Master Mechanic H. R. Spencer directed the following letter to the claimant:

"Green Bay, Wis., June 12, 1963

Mr. Dean C. Blake
Electrician
Green Bay, Wis.

You will please arrange to appear for investigation as indicated below:

Place: Office of Division General Foreman, Green Bay
Enginehouse.

been entitled to, had he remained in service," we call this board's attention to the fact that this issue was not a part of the original claim but was raised for the first time by petitioner in its letter to Carrier's highest officer designated to receive disputes. Therefore, this portion of the claim was not progressed on the property in accordance with Section 3 First (i) of the Railway Labor Act, and is not properly before this board.

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.

Parties to said dispute were given due notice of hearing thereon.

Claimant was charged with being asleep while on duty. There was substantial credible evidence supporting the Carrier's decision that he was guilty of the charge.

Sleeping while on duty is generally regarded as an offense which justifies discharge and, since the claimant had only about three years service with the Carrier, the penalty of discharge cannot be considered excessive.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: William B. Jones
Chairman

E. J. McDermott
Vice Chairman

Dated at Chicago, Illinois, this 11th day of December, 1964.