

Award No. 4646

Docket No. 4615

2-UP-EW-'65

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. 105, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Electrical Workers)**

UNION PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement, the Union Pacific Railroad Company, unjustly dismissed Equipmentman C. D. Sindelar.

2. That accordingly the Union Pacific Railroad Company be ordered to reinstate him to service with seniority and vacation rights unimpaired.

EMPLOYEES' STATEMENT OF FACTS: Equipmentman C. D. Sindelar, hereinafter referred to as the claimant, entered the service of the Union Pacific Railroad Company, hereinafter referred to as the carrier, in the communications department on May 23, 1960 at Omaha, Nebraska. Promoted to position of radioman on July 11, 1960 and assigned at Cheyenne, Wyoming. Promoted on October 24, 1960 to equipmentman and assigned at Green River, Wyoming where he worked until dismissed close of business March 29, 1963.

On March 18, 1963, System Communications Engineer Mr. H. E. Froyd directed a letter to the claimant to report for a hearing and investigation which hearing was held at 9:00 A. M. Saturday, March 23, 1963.

This dispute has been handled with the carrier up to and including the highest officer designated by the carrier, with the result they have all declined to make satisfactory settlement. The agreement effective April 1, 1957 as subsequently amended is controlling.

POSITION OF EMPLOYEES: It is submitted that the claimant was unjustly dealt with when dismissed from service effective at the close of his shift March 29, 1963. The claimant having two years service when discharged which service was satisfactory up until the last three months, and the record reflects a designed plan to railroad the claimant from service. It is evident from a study of each charge in conjunction with the hearing transcript that the carrier was only interested in failures that occurred and work not performed, however, the hearing transcript reflects the carrier made no effort to answer the very pertinent portion of the hearing transcript which is contained on the last page in statement of Mr. Duncan reading as follows:

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.

The evidence adduced at the investigation sustains the charges against the claimant. In fact the Employees did not deny the validity of those charges either on the property or in their submission here.

The Employees handling of this matter on the property amounted simply to a request for reinstatement on a leniency basis. We have no jurisdiction of such requests. Since the claimant had only two years of service and the charges were amply sustained, we cannot find the penalty 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 19th day of February, 1965.