

Award No. 4780

Docket No. 4693

2-B&O-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. 30, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

THE BALTIMORE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement, the Baltimore and Ohio Railroad Company unjustly held out of service Electricians D. L. Pegram and E. W. Ramey from December 3, 1962 until December 23, 1962, both dates inclusive, pending and subsequent to formal hearing scheduled for December 10, 1962.

2. That accordingly, the Baltimore and Ohio Railroad Company be ordered to compensate Messrs. Pegram and Ramey for time lost between December 3 and December 23, 1962, both dates inclusive as a result of these suspensions, as well as being made whole with respect to their vacation rights, hospitalization, medical and surgical care and group Life Insurance and the removal of reprimands assessed by the Chief Mechanical Officer from their service records.

EMPLOYEES' STATEMENT OF FACTS: On November 30, 1962, Electricians D. L. Pegram, E. W. Ramey and Geo. Talley were engaged in the installation of electrical equipment at Stock Yards Shop, Cincinnati, Ohio under the supervision of Electrical Foreman, R. H. Bernard. Inasmuch as Electricians Geo. Talley and D. L. Pegram had been granted permission to absent themselves in the afternoon of November 30, 1962 from Electrical Foreman Bernard, it was found necessary to utilize the remaining Electrician, E. W. Ramey, to other duties inasmuch as the work at Stock Yards Shop could not be continued with one electrician, whereupon Foreman Bernard proceeded with electrician B. W. Ramey to Smith Street Warehouse to inspect and perform maintenance work on the elevators at this facility. At approximately 12:10 P.M. Foreman Bernard and Electrician Ramey left Stock Yards Shop and proceeded to Smith Street Warehouse.

On December 3, 1962 claimants received the following notices from General Foreman, R. H. Zinn:

In a word, the carrier submits that the discipline rule in the agreement was properly complied with in the petitioner's case.

CARRIER'S SUMMARY

In this case the proper measure of discipline was assessed against the petitioners. Their actions on November 30, 1962 were inexcusable. Their failures could not be condoned. Accordingly, a reprimand notation was placed on the record of the petitioners indicating the facts as to what had occurred. Certainly the discipline assessed was by all means extremely lenient.

The claim in this case is entirely without merit. The Carrier respectfully requests that this Division so hold and that the claim in its entirety be declined.

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Under Rule 32 a decision to discipline an employee must be based upon evidence adduced at the hearing. It appears that the decision in this case was based upon something other than shown in the transcript of the hearing. The only evidence presented shows that claimant Pegram was off work by permission of his foreman, Bernard, and that claimant Ramey was with foreman Bernard at another work location, so the charge of "unauthorized absence" is not supported.

The claim for removal of the reprimands from claimants' records and for pay for time lost December 3 to 23, 1961 is proper, but the remainder of the claim is not appropriate to this case.

AWARD

Claim sustained as limited in the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **SECOND DIVISION**

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 15th day of October, 1965.

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