

Award No. 4925
Docket No. 4768
2-SP(PL)-CM-'66

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Levi M. Hall when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 114, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)

SOUTHERN PACIFIC COMPANY (Pacific Lines)

DISPUTE: CLAIM OF EMPLOYEES:

"1. That under the provisions of the current agreement, Car Inspector, H. J. Welch was dismissed unjustly December 12, 1963, from the services of the Carrier; and

2. That accordingly the Carrier be ordered to reinstate him with seniority rights unimpaired, all vacation rights, paid premiums for hospital, surgical and medical benefits for all time held out of service, paid premiums for Group Life Insurance for all time held out of service and compensated for all time lost retroactive to the aforementioned date of dismissal."

EMPLOYEES' STATEMENT OF FACTS: The Southern Pacific Company (Pacific Lines), hereinafter referred to as the carrier, employed car inspector, H. J. Welch, hereinafter referred to as the claimant, assigned hours 7:00 A. M. to 3:00 P. M., Fresno, California, and that the claimant has been in the service of the carrier for approximately fourteen (14) years and has maintained his position satisfactorily since date of employment.

The carriers' representative, D. Brown, master mechanic, summoned the claimant to appear for formal hearing at 9:30 A. M., Friday, November 22, 1963 on alleged charges of violation of ex-parte rules 801 and 810 in connection with his activities in being questioned by the Fresno Police Authorities at approximately 7:00 A. M. on the morning of November 9, 1963, and for allegedly reporting late for his regular assignment on the same morning.

Hearing was held as scheduled.

Carriers' master mechanic, D. Brown, interrogating officer elected to summon as his witnesses at this December 12, 1963, hearing, W. J. Dishner, car foreman, and W. E. Dimmer, patrolman, Southern Pacific Company, Fresno, California.

medical benefits and pay the premiums for life insurance are not supported by any rule, custom or practice in effect on carrier's property and, carrier asserts, are not properly referable to your honorable board.

CONCLUSION: The carrier here asserts that the claim in this docket is entirely without basis or merit, and therefore respectfully requests that it be denied.

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 waived right of appearance at hearing thereon.

It is charged by the Claimant, H. J. Welch, that he was dismissed unjustly on December 12, 1963, from the service of the Carrier.

Claimant was charged specifically by the Carrier with a violation of Rules 801 and 810 of the General Rules and Regulations of the Carrier reading, in part, as follows:

801 — "Employes who are * * * dishonest * * * will not be retained in the service."

810 — "Employes must report for duty at the prescribed time and place * * *"

Claimant was regularly cited for formal hearing on the charges by letter dated November 19, 1963, and a hearing was held on November 22, 1963.

Testimony adduced at this hearing on November 22, 1963, including the testimony of Claimant himself, established conclusively the responsibility of Claimant for his activities involving the improper sacking and possession of grain owned by the Carrier and that he reported late for his assigned duties on the morning of November 9, 1963, as charged.

Claimant's guilt constituting a violation of Rules 801 and 810 of the General Rules and Regulations of the Carrier, was definitely established by the testimony after a fair and impartial hearing. His dismissal by the Carrier was justified.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1966.

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