

Award No. 5609
Docket No. 5452
2-SP(PL)-EW-'68

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Francis B. Murphy when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 114, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

**SOUTHERN PACIFIC COMPANY
(Pacific Lines)**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement Lineman D. E. Diblin was unjustly treated when he was suspended from service on May 13, 1966, prior to formal hearing held May 24, 1966, and subsequent dismissal from service effective May 31, 1966, for alleged violation of Carrier's Rule 1023 of the Rules and Regulations for the Maintenance of Way and Structures.

2. Accordingly, (a) Claimant be restored to service with all service and seniority rights unimpaired with pay for time lost; (b) be granted all vacation rights; (c) Carrier pay Southern Pacific Hospital contributions including dependents' hospital, surgical, medical and death benefit premiums under the Travelers Insurance Group Policy for all time Claimant is held out of service.

EMPLOYEES' STATEMENT OF FACTS: Lineman D. E. Diblin, hereinafter referred to as the Claimant, was assigned, prior to May 13, 1966, as a Lineman Equipment Installer under the supervision of Mr. A. Richmond, Communications Supervisor, San Joaquin Division, and was headquartered at Bakersfield, California.

At 8:00 A. M., May 12, 1966, Mr. R. A. King, Assistant Superintendent of Communications, ordered Claimant to proceed with a group of linemen to Pampa Peak, Oak Creek Pass, California to pick up some ten foot racks of 74B microwave equipment that had been replaced by 76B equipment in a cut-over on May 6, 1966. At 2:00 P. M., D.S.T., Claimant called Mr. King on the order wire and told him that the equipment was loaded as per his request. Mr. R. A. King then ordered Claimant to make certain instrument tests on the order wire levels. When Claimant completed these tests, at approximately four (4) o'clock, he again contacted Mr. R. A. King informing him the tests

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.

After careful review of the briefs and transcript in the instant case it is clearly apparent that claimant was guilty of insubordination on May 12, 1966. Such "tieups," away from home, are a significant and frequent characteristic of the occupation of lineman; however, under the existing circumstances discharge is too severe a penalty for the first offense.

The claimant will be restored to service with seniority and vacation rights unimpaired but no pay for time lost.

AWARD

Claim disposed of in conformity with these findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 17th day of December, 1968.