



Award No. 5630

Docket No. 5497

2-IC-EW-'69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee A. Langley Coffey when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the current agreement at Paducah, Kentucky when it suspended P. E. Moore, Local Chairman, Electricians, at 10:36 A. M., Wednesday, February 23, 1966, prior to his investigation. That it further violated the current agreement, when on March 10, 1966, it suspended P. E. Moore, Local Chairman, Electricians, from service for thirty (30) service days following the investigation.

2. That the Carrier be ordered to reinstate P. E. Moore, Local Chairman, Electricians, immediately, without impairment to his seniority rights, vacation rights, payment of his Health, Welfare, and Death premiums, and compensate him for all time lost due to improper suspension.

EMPLOYEES' STATEMENT OF FACTS: That on Wednesday, February 23, 1966, Local Chairman P. E. Moore, hereinafter referred to as the Claimant, and Committeeman C. A. Moores, Jr. attended a conference with Division Electrical Foreman Brown in his office at Paducah Diesel Shop, at around 10:25 A. M.

That the Illinois Central Railroad Company, hereinafter referred to as the Carrier, suspended Claimant from service at 10:36 A. M., Wednesday, February 23, 1966, prior to an investigation.

That on February 24, 1966, the Carrier sent, by Certified Mail Return Receipt Requested, notice to Mr. P. E. Moore, Local Chairman, Electricians, 248 Iroquois Drive, Paducah, Kentucky, for him to arrange to attend an investigation to be held on March 1, 1966, at 1:00 P. M., and placing charges against him. This notice was signed by H. B. Herrin, Master Mechanic.

The company requests that upon the evidence of record and prior decisions of the Division that the Board affirm the company's decision in this case and deny the union's petition.

(Exhibits not reproduced.)

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.

This is a discipline case. Procedural objections have been noted and considered.

Grievant's conduct for which he was suspended is supported in the record and warranted suspension pending hearing, as provided in Rule 39.

Notice of investigation was proper for inquiring into the charges that grievant was guilty of insubordination and/or related misconduct that warranted discipline in a lesser degree if he was found guilty of some included misconduct not amounting to insubordination.

The system of discipline on the railroads may not be as perfect as some may desire, but it has long endured, by rule, practice, and on appeal, such attacks as those made upon the conduct of the investigation in this case.

The gist of the included but a lesser offense than insubordination with which grievant remained subject to charge, after notice to appear for investigation, is uncivil and contemptuous conduct. He was found guilty and assessed a penalty not disproportionate to the offense against which he had an opportunity to defend without substantial prejudice to his rights as provided in the rules of agreement.

The Board does not substitute its judgment in such cases for that of deciding officers who are in the first line of authority.

AWARD

Claim (1) Denied.

Claim (2) Denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois this 31st day of January, 1969.

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