



Award Number 5878

Docket Number 5631

2-C&O-CM-'70

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee William H. Coburn when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 41, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

DISPUTE: CLAIM OF PETITIONER:

1. Carman Horace Hineman, Jr. was unjustly dealt with, his service rights and rules of the controlling agreement were violated as result of investigation held December 2, 1966, that transcript of investigation was not an exact and precise wording and does not contain all questions and answers asked at investigation.
2. That accordingly, the Chesapeake and Ohio Railway Company be ordered to clear Hineman's service record of an entry and that he be compensated eight (8) hours at carmen's applicable straight time rate for each of the following dates: December 19, 20, 21, 22, 23, 26, 27, 28, 29 and 30, 1966 as per rules 35 and 37.

EMPLOYEE'S STATEMENT OF FACTS: Carman Horace Hineman, Jr. hereinafter referred to as the claimant was regularly employed by the Chesapeake and Ohio Railway Company, hereinafter referred to as the Carrier, as car repairer on its shop track at Russell, Kentucky on the first shift, with a work week Monday through Friday, Saturday and Sunday rest days. The carrier owns and operates a large facility at Russell, Kentucky consisting of diesel house, shop track and transportation yards where cars are switched, repaired, classified and cars are interchanged from other roads to the C&O lines.

The claimant was charged with "reporting for work late and absenting yourself from duty without permission from his first shift assignment on November 25, 1966" and ordered to report to General Car Foreman's Office at 10:00 A.M. on Friday, December 2, 1966 for investigation.

The investigation was held as scheduled and copy of the transcript is attached hereto as Exhibit "A".

The hearing ended at 11:50 A.M. Fourteen days after the date of the investigation, the claimant was notified that:

"It has been found that you were at fault for reporting for work late and absenting yourself from duty without permission from your first

All data herein submitted in support of Carrier's position has been presented to the Employees or duly authorized representatives thereof and made a part of the question in dispute.

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. The Claimant was charged with reporting for work late and absenting himself from duty without permission from his first shift assignment on November 25, 1966. Following a formal investigation held December 2, 1966, Claimant was found guilty, as charged, and suspended for 10 days.

The record in this case, including the transcript of the aforesaid investigation, establishes that the conduct of the hearing by the presiding officer was free of errors prejudicial to the Claimant's contractual rights; that there was sufficient evidence of credible value to sustain the discipline assessed and imposed; that such discipline was not excessive or too severe.

Accordingly, the Board may not set aside the Carrier's disciplinary action and the claim, therefore, must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 9th day of April, 1970.