

Award No. 6235
Docket No. 5979
2-SP(PL)-MA-'71

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 114, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Machinists)

SOUTHERN PACIFIC TRANSPORTATION COMPANY
(Pacific Lines)

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Agreement, Upgraded Machinist G. E. Clardy (hereinafter referred to as Claimant), was unjustly suspended from service on April 3, 1969, and dismissed from service on May 16, 1969.

2. That accordingly the Carrier be ordered to compensate Claimant for all time lost from date of suspension, April 3, 1969, until date of restoration to service on March 26, 1970.

EMPLOYEES' STATEMENT OF FACTS: Upgraded Machinist G. E. Clardy was employed by the Southern Pacific Transportation Company, hereinafter referred to as the carrier, at its Diesel Shop in Los Angeles, California, with assigned shift hours 3:00 P.M. to 11:00 P.M. At the time of his suspension from service on April 3, 1969, and subsequent dismissal on May 16, 1969, claimant had accumulated five (5) years of faithful service with the carrier.

On Thursday, April 3, 1969, claimant performed service on his assigned shift from 3:00 P.M. to 11:00 P.M. On above date and shift, claimant was assigned to work in the carrier's wheel shop, operating a wheel truing machine. Claimant completed his tour of duty in the wheel shop and turned in his time card to Foreman G. W. Hutton at the completion of his shift.

Upon completion of his shift, claimant proceeded to the parking lot located on the carrier's property, and entered his car to drive home. While driving off the property, and in the flow of other off-shift employes, Claimant was blinded by the bright lights of an approaching vehicle while negotiating an "S" curve in the road, whereupon as a result of not being able to see he ran off the road.

The carrier reserves the right, if and when it is furnished with the submission which may have been or will be filed ex parte by the petitioner in this case, to make such further answers as may be necessary in relation to all allegations and claims as may be advanced by the petitioner in such submission which cannot be forecast by the carrier at this time and have not been answered in this the carrier's initial submission.

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 were given due notice of hearing thereon.

The earlier resolution of this issue urges us to dismiss the instant case.

Furthermore, an examination of the submission reveals substantial evidence tending to prove the charge. The record does not disclose any violation relative to the investigation and the discipline imposed. The penalty assessed, under all the circumstances, is not arbitrary or unreasonable.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 10th day of December, 1971.