

(Advance copy. The usual printed copies will be sent later.)

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6471
Docket No. 6360
2-SPT(PL)-CM-'73

The Second Division consisted of the regular members and in addition Referee John J. McGovern when award was rendered.

Parties to Dispute: (System Federation No. 114, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Southern Pacific Transportation Company (Pacific Lines)

Dispute: Claim of Employees:

1. That under the current agreement Car Inspector A. C. Hernandez, (hereinafter referred to as the Claimant) was unjustly deprived of his service rights and compensation when he was improperly suspended from service under date of September 30, 1971, after over 20 years service with the Carrier.
2. That the Carrier be ordered to:
 - (a) Restore the aforementioned Claimant to service with all service and seniority rights unimpaired, and be compensated for all time lost retroactive to September 30, 1971, when he was subsequently suspended on September 30, 1971.
 - (b) Claimant be granted all vacation rights.
 - (c) Assume and pay all premiums for hospital, surgical and medical benefits, including all costs for life insurance.
 - (d) Carrier pay into Railroad Retirement Fund the maximum amount that is required to be paid an active employee for all time he is held out of service.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 result of which was that claimant was ordered to be dismissed from the service.

Carrier raises a procedural objection, in that in the handling of the claim on the property, the Superintendent was never notified of the rejection of his decision rendered in conference on January 6, 1972, confirmed by letter of January 21, 1972 within the time limits prescribed by Rule 38(c) of the current Agreement which reads:

"If a claim or grievance which has been disallowed under paragraph (b) hereof is to be appealed, such appeal must be in writing and must be taken within sixty (60) days from receipt of notice of disallowance, and the representative of the Carrier shall be notified in writing within that time of the rejection of his decision. Failing to comply with this provision, the matter shall be considered closed."

From a review of the record, the facts substantiate the allegations of the Carrier. The Superintendent was never notified within the sixty day time period, hence the matter is considered closed.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:

E. A. Killean

Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1973.