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NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6527
Docket No. 6401
2-GTW-CM-'73

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

Parties to Dispute:

{ System Federation No. 92, Railway Employees'
Department, A. F. of L. - C. I. O.
(Carmen)
{ Grand Trunk Western Railroad Company

Dispute: Claim of Employees:

1. That under the provisions of the current agreement Carman E. A. Magana was improperly suspended and dismissed from service effective March 7, 1972.
2. That accordingly, carrier be ordered to restore Carman Magana to service with all rights unimpaired and paid for time lost, including Health and Welfare premiums and vacation rights plus six (6) percent per annum in interest on wages lost.

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 Claimant was dismissed (later amended to a 120 day suspension) for allegedly falsifying his time claim for the date of March 6, 1972. An investigation was held in accordance with the Agreement between the parties the transcript of which is spread on the record in pertinent part.

The record reveals that disciplinary action was imposed when the carrier's supervisory personnel were unable to locate claimant between the hours of 2:50 AM and 6:30 AM on March 7, 1972 for which hours the claimant filed for pay.

An examination of the transcript of the investigation reveals that sufficient evidence was developed to substantiate the finding of the hearing officer that the claimant was not available for work during the aforementioned hours. We are not the arbiters of the evidence. Our responsibility is to determine whether substantive evidence of probative value sufficient to support the finding has been adduced.

Once it has been determined that the finding of the hearing officer that the claimant was not available for work as alleged meets the criteria above stated it follows that the time claim filed for those hours was false.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 18th day of June, 1973.