

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: (System Federation No. 7, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Burlington Northern Inc.

Dispute: Claim of Employees:

1. That under the Controlling Agreement, Klamath Falls Carman H. Storbeck was unjustly suspended from service of the Burlington-Northern from October 28, 1973 through November 6, 1973.
2. That accordingly, the Burlington-Northern, Inc., be ordered to compensate Carman H. Storbeck for all time lost for this suspension.

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.

The Claimant, Mr. H. Storbeck, a Carman with nineteen years of clear service, was suspended from service for a period of ten days during the period of October 22, 1973 through November 6, 1973, following an investigation in connection with a charge of insubordination and failure to complete a work assignment on September 12 and 13, 1973 of the 11:00 P.M. to 7:00 A.M. tour of duty at Klamath Falls, Oregon.

The Organization contends that the Company violated Rule 35(c) of the Agreement and that as a result the investigation was improperly held. We disagree. A review of the record shows neither any prejudice to the Claimant nor a violation of the rule.

The burden of proof is on the Carrier in this matter of discipline; and from the entirety of the record we find that the Carrier has sufficiently carried its burden of proving that the Claimant was in violation of Rules 661 and 664 of Form 15001, Burlington Northern Safety Rules. We must therefore deny the claim.

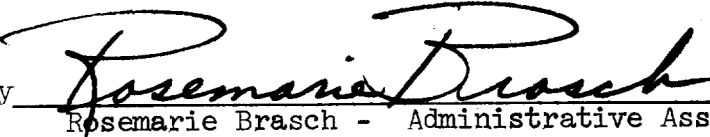
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of July, 1976.