

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
(AFL - CIO - Carmen
(
(Burlington Northern, Inc.

Dispute: Claim of Employees:

1. That the Burlington Northern, Inc. improperly withheld Car Inspector T. Meyers, Cicero, Illinois from service October 26, 1973 pending investigation and dismissed him from service on November 26, 1973.

2. That the Burlington Northern be ordered to:
(a) Compensate Car Inspector T. Meyers, Cicero, Illinois eight (8) hours pay for each work day starting October 27, 1973 until restored to service.

(b) Restore to Claimant all seniority, vacation rights unimpaired; that premium be paid for Hospital, Surgical, Medical Benefits and Group Life Insurance for all time held out of service and all other benefits accruing active employees during the period be restored.

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 employees 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. Timothy Myers, a Car Inspector with seven months of service, was removed from service on the morning of October 26, 1973, pending results of a formal investigation. The Claimant, by notice dated October 26, 1973, was informed of the date and time of the investigation for the purpose of:

"...ascertaining the facts and determining your responsibility in connection with your alleged failure to comply with instructions from proper authority, your alleged insubordination and your alleged failure to be at your designated work location at about 3:00 A.M., Friday, October 26, 1973, Cicero, Illinois."

We find that the Claimant was properly notified of the charges against him. At the investigation the Claimant was ably represented by the Local Chairman. The Claimant and his Representative were given the right to question all witnesses. The Claimant and his Representative had wide latitude to fully present the Claimant's case. We find that the Investigation was properly conducted. The record contains clear and substantial evidence to support the Carrier's findings in Division Superintendent's letter of November 26, 1973 (Carrier's Exhibit No. 3). We find that the discipline imposed is neither arbitrary, capricious or excessive.

We shall 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 /ae
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 10th day of September, 1976.