

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

Parties to Dispute: (System Federation No. 91, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Firemen & Oilers)
(
(Louisville and Nashville Railroad Company

Dispute: Claim of Employes:

1. That under the Current and Controlling Agreement, as amended, Service Attendant B. A. Goodwin was unjustly suspended from the service of the Louisville and Nashville Railroad Company on November 27, 1974, at South Louisville Shops, Louisville, Kentucky after a summary investigation was held on December 17, 1974, and was subsequently dismissed on January 6, 1975, from the service.
2. That accordingly, Service Attendant B. A. Goodwin be restored to service with his seniority rights unimpaired, vacation, health and welfare, hospital and life insurance rights, in addition, be compensated for all time lost, effective November 27, 1974.

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.

On December 2, 1974, the carrier wrote to the claimant, with copy to his Local Chairman, as follows:

"You are charged with soliciting another employee to falsify a signature on a pay check stolen from Electrician J. C. Custer; removing a stolen pay check from company property, and cashing same at Floyd Street Liquors on or about November 8, 1974.

"Investigation will be held at 9:00 a.m., Friday, December 6, 1974, in the assembly room, Manager's Office Building, South Louisville Shops.

"Arrange to be present with your representative, if you desire one, and any witnesses you may care to have testify in this case."

The investigation was held on December 17, 1974, having been postponed by mutual consent, claimant was adjudged guilty by the carrier as a result of evidence adduced at the investigation, and claimant was dismissed from the service of the carrier by letter from the General Superintendent-Shops, dated January 6, 1975.

Claim for reinstatement was submitted on the grounds that claimant was unjustly treated and therefore denied the protection of the Controlling Agreement, Rule 32, Discipline, i.e. that claimant was denied a fair hearing.

Based upon a careful review of the record before us we find sufficient evidence of probative value to hold that: (1) Claimant was afforded a fair and impartial hearing; (2) the finding of guilty of the charge is supported by substantial evidence; and (3) the discipline imposed was reasonable. The claim will be denied.

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 4th day of March, 1977.