

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. 106, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
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(The Washington Terminal Company

Dispute: Claim of Employees:

1. That under the current agreement, Car Repairman Thornal A. Stephens was unjustly dealt with when he was suspended from the service on August 10, 1975, and subsequently dismissed from the service of the Carrier, The Washington Terminal Company effective September 15, 1975.
2. That accordingly, the Washington Terminal Company be ordered to return Car Repairman T. A. Stephens to the service of the Carrier with seniority and vacation rights unimpaired and compensated for all time lost since August 10, 1975.

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, Car Repairman T. A. Stephens an individual with a year and a half service in the employment of the Carrier, was charged with:

"Burglary of the Food and Beverage Section in Amtrack Club Car 3322 approximately 11:35 P.M., on August 10, 1975."

A formal hearing was held on September 3, 1975. By letter dated September 15, 1975, the Claimant was notified that he was found guilty as charged, and was dismissed from the service of the Carrier.

The Organization contends that the Carrier has failed to sustain its burden of proof with sufficient evidence to support its findings of guilt. We disagree. We find that there was substantial evidence in the record submitted to this Board to support the Carrier's finding of guilt, including the testimony of Patrolman Schall, the presence of the Claimant in the car, the finding of the six pack of beer and the finding of the screw driver and flashlight on the service bar. The discipline of discharge was not arbitrary, capricious or excessive in this case. We will deny the Claim.

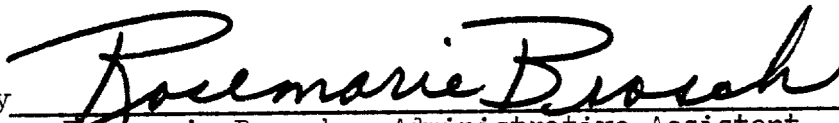
A W A R D

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 5th day of April, 1977.