

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)  
                                 { The Washington Terminal Company

Dispute: Claim of Employees:

1. That under the current agreement, Car Cleaner C. W. King was unjustly and capriciously dealt with when he was removed from the service of the Washington Terminal Company pending hearing and dismissed effective December 3, 1975.
2. That accordingly, the Washington Terminal Company be ordered to return Car Cleaner C. W. King to the service of the Washington Terminal Company with seniority and vacation rights unimpaired and compensated for all time lost since November 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 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.

The Claimant, Car Cleaner C. W. King, an employee with a short service record, was charged and found guilty of:

"Insubordination by refusing to follow instructions given to you by your Supervisor at 11:00 A.M. on November 10, 1975."

The Organization contends that the Claimant was not guilty of insubordination, and that the Carrier's action in this instance is arbitrary, capricious and excessive. We find that there is substantial probative evidence in the record before us to support the finding of guilt, including the Claimant's own testimony:

"... He was telling me to do something. I told him he wasn't telling me to do anything, he was asking me."

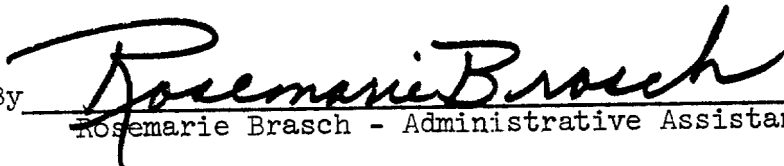
We find that the discipline of dismissal in this case is excessive, and we order that the Claimant be restored to service with all rights unimpaired, but without back pay. We believe that the discipline has served its purpose, and that the Claimant will now both value his job and recognize his responsibility to follow all lawful orders of his superiors.

A W A R D

Claim sustained as set forth in the Findings.

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.