

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

Parties to Dispute: (System Federation No. 97, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Firemen & Oilers)
(
(The Atchison, Topeka & Santa Fe Railway Company

Dispute: Claim of Employees:

- (1) That under the current agreement Laborer J. D. Seale was unjustly dismissed from the service of the Carrier as a result of an investigation held on October 14, 1975, at Brownwood, Texas.
- (2) That accordingly the Carrier be ordered to reinstate the Claimant with his seniority, vacation, hospital and insurance rights unimpaired and also that he be additionally compensated at his applicable hourly rate of pay for all time lost retroactive to October 13, 1975, and to continue on the same basis until he is returned to service.

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.

Pursuant to Notice and investigation properly held claimant was dismissed from the service of the carrier for violation of company rules 15, 16, and 30. More specifically he was dismissed for appropriating company property to his own use and failing to protect his assignment.

The record supports the carrier's finding of guilt in this matter. Sufficient evidence of probative value was presented to substantiate the charges. These are serious offenses for which, absent some reason for leniency, dismissal is a proper punishment. We find no cause for leniency in this case.


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 10th day of February, 1978.