

The Second Division consisted of the regular members and in addition Referee Arthur T. Van Wart when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(
(Western Pacific Railroad Company

Dispute: Claim of Employees:

1. That under the current Agreement Machinist C. F. Flynn (hereinafter referred to as Claimant) was improperly suspended from service for five (5) working days commencing on February 23, 1976.
2. That, accordingly, the Carrier be ordered to compensate Claimant for wage loss resulting from improper five (5) day suspension.

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.

Claimant Machinist, on November 25, 1975, was working the position of Locomotive Inspector at Carrier's Diesel Shop at Stockton, California. The duties of such position required, among other things, that Claimant make various inspections, on Locomotives, including inspection for fuel leaks. Locomotive WP 3521 was brought into said shop and placed over the pit during Claimant's tour of duty on November 25, 1975. Claimant inspected said Locomotive and signed Form 2-A, Locomotive Inspection Report, attesting that he had checked said locomotive for fuel leaks.

Locomotive 3521 remained at Stockton until 7:50 a.m. November 26, 1975 at which time it was placed on eastbound Main "APRG". Train APRG arrived at Orville, 111 miles away, on the main line at 11:40 a.m. at which time a Federal Locomotive Inspector made an inspection of the train's Locomotive. His inspection revealed a fuel leak for which said Inspector filed a "Special Notice for Repairs" causing Engine 3521 to be removed from service at Orville and returned to Stockton for repairs.

Claimant was notified to attend an investigation to ascertain the facts and determine his responsibility, if any, for his failure to find and report leak in fuel tank of Unit WP-354 which he had inspected Tuesday, November 25, 1973. As a result of the investigation held thereon Claimant was adjudged to have failed to locate and report a leak that existed in the fuel tank of Unit WP-354. Claimant was assessed five (5) working days as discipline for such failure.

In the absence of any question on alleged procedural error the merits of the case are addressed. It is held that there was sufficient evidence adduced at the investigation to support the conclusions reached by Carrier as to the Claimant's culpability. The basic defense raised on behalf of Claimant, to wit, that Foreman Skinner had been negligent, even if true, would not provide a basis for exculpating claimant. Claimant was paid for being Carrier's Locomotive Inspector on November 25, 1975. As such, he was charged with the responsibility, among other things, to inspect Engine 3521 for fuel leaks and to record the findings of his inspection on Form 2-A. The absence of any notation on Form 2-A, indicating that fuel leaks were discovered on the engine inspected, in the light of the evidence adduced, is construed to represent an omission on the part of Claimant.

It has been long recognized that the dereliction of duty by one employee does not serve to excuse the failure of another employee to properly perform his duties. As was pointed out by this Division in its Award 3840 (Doyle):

"The fact that others, including possibly the foreman, may have also been negligent does not excuse the conduct of Claimants. The standard of reasonable prudence remains constant and is not lowered by reason of the fact that there may be general laxity."

Similarly Award 1716 also held:

"Every employee is responsible for the performance of his duties and, if he fails to properly perform them he cannot excuse himself from his responsibility for such failure merely because others may have been guilty of the same fault."

The discipline assessed, in the circumstances herein, was not unreasonable.

A W A R D

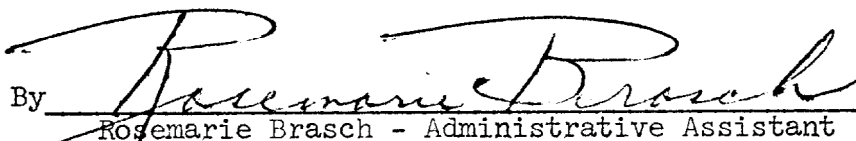
Claim denied.

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Award No. 7566
Docket No. 7494
2-WP-MA-'78

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 16th day of June, 1978.