Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 7573
SECOND DIVISION Docket No. 7457
2-RF&P-CM-'78

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

Parties to Dispute: (System Federation No. 4, Railway Employes' Department, A. F. of L. - C. I. O. (Carmen)
(Richmond, Fredericksburg and Potomac Railroad Company

Dispute: Claim of Employes:

1. That Carman-Tentative, A. A. White was unjustly disciplined by suspension of eight working days as result of investigation held in the Master Mechanic's office at 10:30 a.m., Wednesday, October 22, 1975. The charges were not proven to be true and White was not afforded the opportunity to secure necessary witnesses in violation of Rule 34, also that the Carrier did not comply with provisions of the "Memorandum of Understanding, dated May 19, 1969."

2. Accordingly, Carman-Tentative, A. A. White is entitled to be compensated eight (8) hours at carmen's applicable straight time rate each date, October 20, 21, 22, 23, 26, 27, 28 and 29, 1975, also that the entry of said investigation be stricken from White's personal record.

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.

The claim arises out of a dispute at Carrier's Potomac Yard near Alexandria, Virginia, where the interchange of freight cars moving north and south is carried out. The Claimant is a carman who was disciplined by a suspension of eight (8) working days. He was working the midnight to 8:00 a.m. tour of duty on the extra force which fills in for vacation vacancies and other work where needed and as assigned by the car foreman. The specific problem arose when another carman reported sick and claimant was ordered to report to the piggyback ramp to fill the vacancy. Claimant

regularly worked such ramp four days of each week, working the extra force on the fifth day. Claimant began work at the ramp at approximately 6:05 a.m.

At 6:30 a.m. the foreman for the day shift learned he would be short men and additional men would be needed to complete the work to meet schedules. As a result it was decided that claimant would be needed to work beyond his shift on overtime. When he was notified claimant indicated he did not want to work overtime. Claimant indicated he was too tired. Thereafter, claimant clocked out at 8:00 a.m. and subsequently called the foreman and told him he would not remain to work the overtime. Claimant was advised he would have to protect his assignment or be taken out of service. Claimant then left the yard. As a consequence, claimant was charged with abandoning his assignment after being instructed to stay on duty. Thereafter, an investigation was conducted pursuant to Rule 34 of the agreement. As a consequence, claimant was found guilty and discipline was imposed.

A review of the record here supports Carrier's contention that it met its burden of proof by submitting substantial evidence that claimant abandoned his assignment. Refusing overtime and leaving an assignment without permission are offenses that could have serious consequences on a railroad. The claimant here maintains he was too fatigued to work the overtime. We refer to Award 7062 (Norris) that involved a similar fact situation and we believe the reasoning there has application here. Taken as a whole, the claimant lacked a valid reason for leaving his assignment and refusing overtime. It is incumbent on employes to follow supervisory instructions and not take matters into their own hands as was done here.

Insofar as the charges were proven and the Carrier's imposition of discipline was neither arbitrary, capricious nor unreasonable, this Board has no basis to disturb Carrier's actions.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 23rd day of June, 1978.