

The Second Division consisted of the regular members and in addition Referee Ralph W. Yarborough when award was rendered.

Parties to Dispute: (System Federation No. 162, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Southern Pacific Transportation Company

Dispute: Claim of Employees:

1. That the Southern Pacific Transportation Company (Texas and Louisiana Lines) violated the rights of Carman R. L. McMahan when they dismissed him from service following investigation held on April 22, 1976.
2. That accordingly, the Southern Pacific Transportation Company (Texas and Louisiana Lines) be ordered to reinstate Carman McMahan to service with all health and welfare benefits intact, all seniority and vacation rights restored and that he be compensated for all time lost from April 15, 1976, until he is reinstated.

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.

On March 3, 1976 at about 2:00 a.m. some cars were unlawfully entered on a freight train being serviced in the Southern Pacific Transportation yards in San Antonio and goods were unlawfully taken from the cars, goods which were being carried in interstate commerce. On that day Employee was working as a car inspector in the east yard of Carrier at San Antonio, Texas. On March 4, 1976 Claimant was approached by an F.B.I. agent who told him that another carrier employee was in jail charged with the events of the day before, and that if he, Claimant, would cooperate with the officers, they would recommend special consideration for him. The Claimant then confessed he had stolen goods the night of March 3 from the carrier.

On April 15, 1976, Claimant pled guilty in the United States District Court for the Western District of Texas at San Antonio, Texas of taking, stealing and carrying away property of a value of less than \$100.00, which was at that time traveling in interstate and foreign commerce, and was fined in the sum of \$1000.00.

Claimant took the stand at the hearing in this record and complained that he did not receive special consideration after cooperating with the officers, but at no place in the record can we find that he denied that he stole the goods from the train in interstate commerce at the San Antonio yards of the carrier on the morning of March 3, 1976.

We find appeal absolutely without merit.

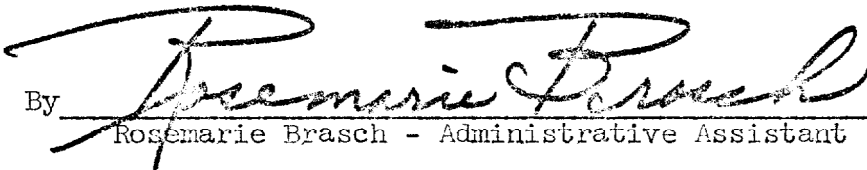
A W A R D

Claim of employe 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 15th day of August, 1978.