

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. 16, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Norfolk and Western Railway Company

Dispute: Claim of Employee:

1. That the Carrier violated the Agreement of September 1, 1949, as subsequently amended, when on September 26, 1975 Carman P. F. Klump was given a formal investigation, resulting in unreasonable and capricious assessment and a ten (10) day deferred suspension by letter dated October 21, 1975.
2. That the investigation was improperly arrived at and represents unjust treatment within the meaning of Rule No. 37 of the controlling agreement.
3. That because of such violation and capricious action, Carrier be ordered to remove such ten (10) day deferred suspension from the said employees' service 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.

Claimant Carman was given a ten (10) day deferred suspension for not stopping a car for having a defect which later caused the derailment of a train.

We have thoroughly examined the record of this case including the transcript of the investigation. We are unable to conclude along with the Carrier that in respect to the policies and procedures extant at Clare, Ohio at the time of the alleged violation the Claimant can be found to have avoided his responsibility so as to warrant being disciplined.

That the Agreement was violated.

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Award No. 7683
Docket No. 7525
2-NRW-OM-'78

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brusch - Administrative Assistant

Dated at Chicago, Illinois, this 17th day of October, 1978.