

The Second Division consisted of the regular members and in addition Referee Abraham Weiss when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(
(St. Louis-San Francisco Railway Company

Dispute: Claim of Employees:

1. That the St. Louis-San Francisco Railway Company violated the controlling Agreement, particularly Rule 35, when they unjustly suspended Machinist K. L. Willmore from December 18, 1976 through January 2, 1977 for his alleged violation of Rules B and C of the Rules, Regulations, Safety Rules, and Instructions Governing Mechanical Department Employees, Form MP-1 Standard, effective March 1, 1957, when he allegedly caused a deliberate work slow down on November 29, 1976.
2. That accordingly, the St. Louis-San Francisco Railway Company be ordered to compensate Machinist K. L. Willmore in the amount of eight (8) hours' pay at a Machinist's pro rata rate of pay for December 20, 21, 22, 23, 24 (Christmas Eve), 25 (Christmas Day), 27, 28, 29, 30 and 31, 1976 and January 1, 1977 (New Year's Day).
3. Machinist K. L. Willmore shall also receive all benefits accruing to any other employee in active service, including vacation rights and seniority unimpaired.

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, a machinist, was suspended from December 18, 1976 through January 2, 1977 for allegedly causing a deliberate slowdown of work and failure to perform all the work assigned to him on the service track during his tour of duty November 29, 1976.

Claimant normally worked in the shop. On the day in question, marked by inclement weather -- cold with icy conditions -- Claimant was assigned to work on the service track during the second half of his shift. Claimant had last been regularly assigned to the service track some seven years previous to that date, and he so informed his immediate supervisor, a relief foreman.

At the hearing, Claimant's activities on November 29 were described by the relief foreman in the following terms: he "was just out there walking around."; and that with respect to the units on which he was to work that day, "one man could have performed this work efficiently ... under normal circumstances." The relief foreman also testified that he had twice furnished Claimant with help (an apprentice) that day, once at Claimant's request when he was getting behind in his work, in order to get the work done on time.

But the circumstances that day were not normal. The machinist on the next shift testified that it took longer that day to do the work because "it was icy, the running boards were icy, it was cold, and the cold weather makes the oil run slow."

In addition, the relief foreman testified at the investigation that he was mistaken as to the amount of work performed by Claimant which led to the charge against Claimant; that he had in fact understated what Claimant actually did, and he then proceeded to itemize the specific work performed by Claimant.

In short, the allegation that Claimant had not performed an adequate amount of work is not supported by the record and Carrier has not sustained its burden of proof in that respect.

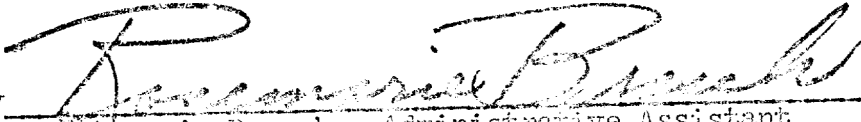
The record does not substantiate the charge against the Claimant and the claim will be sustained.

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 Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 4th day of January, 1979.