

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

Parties to Dispute: (System Federation No. 7, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Blacksmiths)
(Burlington Northern Inc.

Dispute: Claim of Employees:

1. That in violation of the current agreement, Blacksmith Edward C. Gerk, Jr., was unjustly suspended from Carrier service on date of July 8, 1976 and subsequently dismissed from service on date of August 2, 1976.
2. That accordingly, Blacksmith Edward C. Gerk, Jr. be made whole, restored to Carrier service with all seniority rights, vacation rights, holidays, sick leave benefits and all other benefits that are a condition of employment, unimpaired and starting with date of August 8, 1977, compensation for all lost time plus 6% annual interest on all such lost wages, also reimbursement for all losses sustained account loss of coverage under health and welfare and life insurance agreements during the time held out of service.

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, an employee with 18 years' service with Carrier, was dismissed for striking another employee. The claim presented and discussed on the property amounted in essence to a plea for reinstatement on a leniency basis, without back pay, on the grounds that Claimant was ill.

During conferences between the Organization and Carrier officials, the Carrier agreed to reinstate Claimant if he would submit medical statements as to his physical and emotional fitness, subject to review and concurrence by Carrier's Chief Medical Officer.

Claimant submitted a doctor's report which dealt with his physical condition.

Based on the particular facts of this case, we are of the opinion that Claimant should be reinstated to service without back pay subject, however, to the condition that Claimant will be required to submit to a complete examination by Carrier's Chief Medical Officer to determine whether he is qualified to return to service.

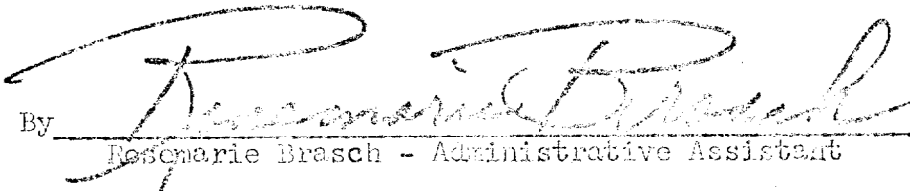
A W A R D

Claim sustained to the extent and in the manner set forth in Findings.

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.