

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (System Federation No. 76, Railway Employees'
(Department, A. F. of L. - C.I. O.
((Carmen)
(Chicago and North Western Transportation Company

Dispute: Claim of Employee:

1. Car Inspector John A. Piller was unjustly assessed thirty (30) days suspension on March 28, 1977.
2. Car Inspector John A. Piller was erroneously charged with falsification of his individual time card on March 10, 1977.
3. That the Chicago and North Western Transportation Company be ordered to compensate Car Inspector John A. Piller for all time lost, and make him whole for vacation rights and all health and welfare and insurance benefits as per Rule 35.

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 reported for his 3:00 p.m. afternoon shift on March 10, 1977, and there is no dispute that he reported off at 7 p.m. by acceptable practice. When the payroll was being prepared for the first half of March, 1977, however, it was noted that the time slip for March 10, 1977, on behalf of claimant showed a total of eight hours.

Claimant was subsequently charged with falsification of his time card. Following an investigative hearing, he was given a 30-day suspension.

The hearing developed that the usual custom is to fill out time cards at the beginning of each shift. Claimant alleges that, after he reported off, he threw away the time card and the following day submitted a time card for four hours for March 10.

Third shift Car Inspector Richard Podewils testified at the hearing that he picked up claimant's time card near the garbage can and placed it in the time card box. Carrier alleges no knowledge of the revised time card showing four hours.

Sufficient evidence of falsification is lacking for the imposition of a disciplinary suspension. Claimant made no effort to disguise the fact that he was leaving early, so that it was readily known that he worked only four hours on March 10. Car Inspector Podewils' role in accidentally retrieving the time card cannot be gainsaid. It is true, of course, that the alleged second time card, claiming four hours, did not come into evidence. On the record, however, there is insufficient evidence to support the conclusion that claimant submitted a fraudulent time card on March 10, 1977.

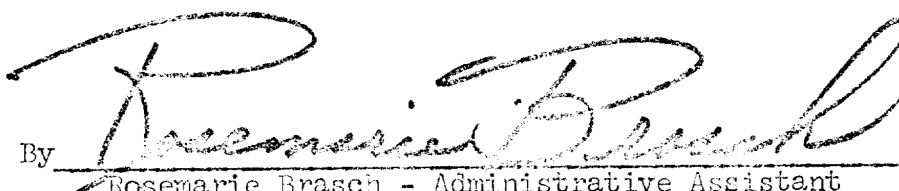
A W A R D

Claim sustained as per Rule 35.

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 7th day of February, 1979.