

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

Parties to Dispute: ( Sheet Metal Workers' International  
Association  
(  
( Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. That under the terms of the controlling agreement, Sheet Metal Worker Charles Lighty was unjustly suspended from the service of the Chicago & North Western Transportation Company from September 17, 1976 through October 1, 1976.
2. That accordingly, the Chicago & North Western Transportation Company be ordered to compensate Sheet Metal Worker Charles Lighty in the amount of fifteen (15) days, 8 hours per day for all time lost until returned to service on October 2, 1976.

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.

Carrier charged that employe Lighty violated Safety Rule No. 14 by absenting himself from his job without permission at approximately 3:45 P.M., on September 4, 1976. Employe at that time was regularly employed by Carrier at its Chicago, Illinois shops, with assigned hours from 8 A.M., until 4 P.M. At the time and occasion in question, employe was seen standing near his personal automobile with a water hose in his hand. Employe testified that the car was parked in an area where Sheet Metal Workers' work occurs; this was not refuted by Carrier. Carrier's witnesses stated that "We assumed that he had been washing his car." This was an assumption based upon circumstantial evidence, but employe was not charged with washing his personal car on company time, he was charged only with violation of Safety Rule No. 14 by "Absenting yourself from your job without permission". An employe conceivably might possibly be shining his shoes,

whittling a toy, or doing some other personal chore without absenting himself from his job in violation of the Safety Rule. Soldiering on the Company's time is a different offense from absenting oneself from the job in violation of the Safety Rules.

We find that there was no charge against employe of attending to personal business on Company time, and that the case against employe, of absenting himself from his job, is sustained only by inferences and not by substantial evidence.

A W A R D

Claim sustained. It is ordered that Sheet Metal Worker Charles Lighty be compensated for time lost by the ordered suspension from work.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 1st day of August, 1979.