

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. 2, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Firemen & Oilers)
 { Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That under the current applicable Agreement Laborer Edward Allen Holmes was unjustly dismissed from the service on May 9, 1977.
2. That accordingly, the Missouri Pacific Railroad Company compensate Laborer, Edward L. Holmes, at the pro rata rate of pay for each work day beginning May 9, 1977, until he is reinstated to service and in addition receive all benefits accruing to any other employee in active service, including vacation rights and seniority unimpaired. Claim is also made for Laborer, Edward A. Holmes, for his actual loss of payment of insurance on his dependents and hospital benefits for himself, and that he be made whole for pension benefits including Railroad Retirement and Unemployment Insurance, and in addition to the money claimed herein, the Carrier shall pay Mr. Holmes an additional sum of 6% per annum compounded annually on the anniversary date of said claim.

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 was dismissed from the service of the Carrier for acting in a discourteous, belligerent and threatening manner and using profane, obscene and vulgar language directed at General Car Foreman Balle and Foreman T. R. Hunt.

We have reviewed the transcript of the case and find that there is sufficient evidence to support the finding by the Carrier that Claimant was guilty of the offense charged. The facts surrounding the incident which gave rise to the charge tend to mitigate, however, against assessing the ultimate penalty of dismissal. A suspension from service for a period of time would have been the appropriate discipline. We will restore the Claimant to service without compensation for time lost.

Form 1
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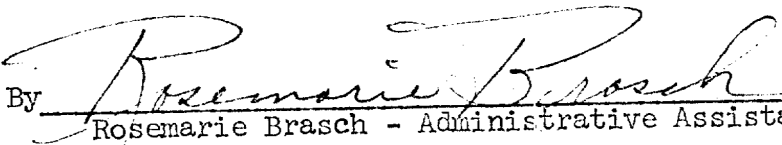
Award No. 8042
Docket No. 7868
2-MP-FO-'79

A W A R D

Claim sustained in accordance with the 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 15th day of August, 1979.