

The Second Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

Parties to Dispute: { System Federation No. 114, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Firemen & Oilers)
 { Southern Pacific Transportation Company

Dispute: Claim of Employees:

1. That under the current agreement Firemen and Oiler A. O. Mendoza was unjustly suspended on August 26, 1976 and dismissed from the service of the Carrier on September 2, 1976 following an unfair and improper hearing.
2. That accordingly, the Carrier be ordered to:
 - (a) Restore the aforesaid employee to service with all service and seniority rights unimpaired, compensate him for all time lost and with payment of 6% interest added thereto.
 - (b) Reinstate all vacation rights to the aforesaid employee.
 - (c) Pay employee's group medical insurance contributions, including group medical disability, dependents hospital, surgical and medical and death benefits premiums for all time that the aforesaid employee is 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 employee or employees involved in this dispute are respectively carrier and employee 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 employed at Carrier's Tucson, Arizona Diesel Facility as a locomotive supplyman with regular assignment 11:00 pm to 7:00 am. He was terminated following hearing and investigation on timely notice, into charges that he was under the influence of intoxicants and AWOL from his job for several hours on August 26, 1976.

Claimant reported to work at his assigned hour of 11:00 pm on the night of August 25, 1976. At approximately 1:30 am on August 26, 1976, his foreman told him to deliver some paperwork to the yard office. Shortly thereafter Claimant took a Company stake bed truck without permission and left the property. According

to his own testimony he "ducked out for a quick lunch". Claimant returned with the truck about 3:30 a.m. and two Carrier witnesses in unrefuted testimony stated that he smelled of alcohol, was unsteady on his feet and was glassy-eyed. Claimant concedes that he might have exhibited the symptoms indicated but insists that the cause was exhaustion and some beer he had consumed earlier in the day on August 25, 1976 was "catching up with him".

After reviewing carefully the record evidence we are persuaded that Claimant was accorded his contractual right to a fair hearing and that Carrier established his culpability as charged by substantial evidence on the record. We cannot conclude that the discipline imposed is unreasonably harsh or disproportionate to the proven offense.


A W A R D

Claim denied.

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 5th day of March, 1980.