

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

Parties to Dispute: { System Federation No. 4, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Carmen)
 { Richmond, Fredericksburg and Potomac Railroad Company

Dispute: Claim of Employees:

1. That Carman-tentative, R. B. Demas was unjustly dismissed from service as result of investigation held in the office of the Master Mechanic on June 7, 1977 in violation of Rule 34 of the Shop Crafts Agreement.
2. Accordingly, Demas is entitled to be returned to service with seniority rights unimpaired and compensated for all lost wages commencing July 9, 1977 to include 6% annual interest, plus all benefits and insurance accruing to other employees in service, until Demas is returned to 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.

An investigation was held on June 7, 1977 to determine whether Claimant failed to oil journal boxes on cars scheduled for departure on train 105 on May 31, 1977, after personally being instructed to do so on May 30, 1977, and his correlative failure to comply with the Master Mechanics March 13, 1975 directive relative to this maintenance function. On July 7, 1977, he was apprised by the Master Mechanic, that the investigative record clearly sustained the aforesaid specifications and he was dismissed from service, effective, July 8, 1977. This disposition is presently before us on appeal.

In our review of the investigative transcript, particularly the testimony of Permanent Car Inspector Sutton and Supervisor of Mechanical Equipment Gallahan, we find the evidence conclusive relative to the Claimant's failure to oil the journal boxes on the drop ins on Tracks on 15 and 17. In toto, they represent eleven cars on Train 105 that should have been serviced by Claimant. He did not offer a plausible explanation for such dereliction and his contention that Rule 105 was not observed is without persuasive merit. This rule has no

relevance to this dispute since the servicing of journal boxes, in this instance, did not require blue flag protection and the dry boxes were located on tracks that had been blocked out.

Claimant was found guilty of a very serious offense which when coupled with his prior service record, justified the penalty imposed. It would be contrary to both parties' interests, if we countenance such deportment, especially when safe operations is a primary objective in rail transportation.

As we are constrained by the record to affirm this decision, we believe that the purposes of discipline have been served by his dismissal to date and we will direct that he be reinstated without back pay on a leniency basis. We advise the Claimant, however, that we will not look kindly upon any recidivist behavior and expect that he will diligently observe all the safety rules and regulations governing his work assignments.

A W A R D

Claim sustained to the extent expressed herein.

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 23rd day of July, 1980.