

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

Parties to Dispute: { International Association of Machinists
{ and Aerospace Workers
{
{ Detroit and Mackinac Railway Company

Dispute: Claim of Employees:

That machinist Randall Lansky be restored to the service of the Detroit and Mackinac Railway Company and made whole in accordance with Rule 32 of the controlling Agreement.

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.

In this dispute, the Organization belatedly raised procedural objections to the conduct of the investigative hearing, citing what it claimed to be multiplicity of roles by several of the Carrier's officials. Without examining Carrier's cogent argument that such objections were not raised on the property and therefore should not be heard by the Board, suffice it to say that the Board finds no impairment in the conduct of a fair investigative hearing. The Claimant and the Organization had the full opportunity to present their defense. Indeed, there is little factual dispute between the parties.

The issue involves time reported by the Claimant for September 29, 1978. The time slip introduced to cover this date was actually marked "8/29/78" instead of "9/29/78". The Board is satisfied, however, that this dating was in error and, more important, was acknowledged to be so by all concerned. Clearly, the Claimant put in a time slip for a full day's work for the day under investigation (September 29), but he does not deny that he left work at 3:00 p.m. instead of 4:30 p.m., which would have been the end of his assigned shift. There is no question but that the Claimant was paid for time from 3:00 p.m. to 4:30 p.m., for which he made a claim on his time slip, although he had left the premises at 3:00 p.m.

In his defense, the Claimant stated that he believed that there was a "understanding" that he could leave when his work was completed, without loss of pay. He cited an earlier instance, where the supervisor had permitted him to go home for the remainder of a day without loss of pay, because he was ill.

No probative evidence was produced in the hearing to show that the Carrier as a practice permitted employees to make time claims for hours not worked. By leaving early (apparently without notification) and claiming pay for the remainder of the assigned shift, the Claimant was properly found guilty of the charge of "falsifying" his time slip. The penalty of dismissal is severe, but the offense was serious, and the Board has no proper basis for interfering with the Carrier's action.

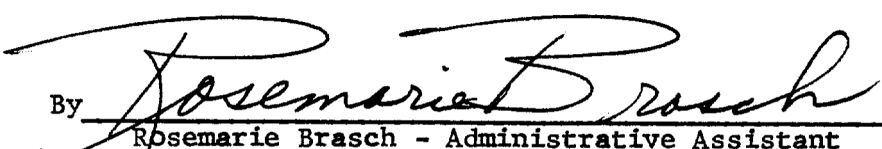
A W A R D

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 8th day of October, 1980.