

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

Parties to Dispute: { Brotherhood Railway Carmen of the United
States and Canada

{ Elgin, Joliet and Eastern Railway Company

Dispute: Claim of Employees:

1. That the Elgin, Joliet & Eastern Railway Company, hereinafter referred to as the Carrier, improperly suspended Carman Ronald D. Courtney, hereinafter referred to as Claimant, for a thirty-day period commencing August 17, 1977 through September 25, 1977 as a result of an investigation held on July 27, 1977. Said suspension is in violation of Agreement Rules 100 and 116 as well as being arbitrary, capricious, unfair, unjust, unreasonable and an abuse of managerial discretion.
2. That the Carrier be ordered to compensate Claimant for eight hours pay at the pro rata rate for each day of the thirty day suspension and that his seniority and vacation rights be unimpaired.

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.

The organization contends that the thirty (30) days suspension penalty was arbitrary, unreasonable, capricious and a violation of Agreement Rules 100 and 116.

Carrier disputes these assertions.

Our review of the record indicates that the investigative hearing held on July 27, 1977 to determine claimant's responsibility in connection with the charges set forth in the July 19, 1977 disciplinary notice was properly conducted. We find nothing in the investigative transcript which shows that the hearing was biased or inconsistent with our judicial principles and standards.

Similarly, we agree with carrier's argument that the delineation of a specific contract rule in the statement of charges is not a procedural necessity. The allegation contained in the notice of hearing were unambiguous and more

than sufficient to provide claimant a reasonable opportunity to prepare his defense. In Second Division Award 6346 which is pertinent to this dispute, we clearly noted our position on this type of issue.

There we held that "a review of the carrier's notice of hearing shows the circumstances were adequately described. The carrier's allegations in the notice alerted the claimant to the nature of the case so he could properly prepare his defense. The claimant was quite aware that he was being charged with misconduct and the carrier was following established procedures under the Agreement for processing disciplinary cases". Based on the record and on our decisional precedents, we must reject the procedural objections raised.

Correlatively, regarding petitioner's substantive arguments and position, we find nothing in the record which reasonably demonstrates that he complied with carrier's attendance and reporting requirements. He had been repeatedly warned about his poor attendance record and granted leniency from an investigation scheduled for March 12, 1976. He was suspended for ten (10) days following an investigation held on July 22, 1976, which was deferred because of his personal financial condition and was again charged for similar infractions in the instant dispute.

The thirty (30) days suspension penalty was not unreasonable, arbitrary or an abuse of managerial discretion, when measured against claimant's work record. Instead it reflected more an effort on the part of carrier to prescribe rehabilitative discipline. Hopefully, claimant will make the requisite attitudinal adjustments necessitated by his employment and contribute to the well being of this industry. Accordingly we must reject this claim.

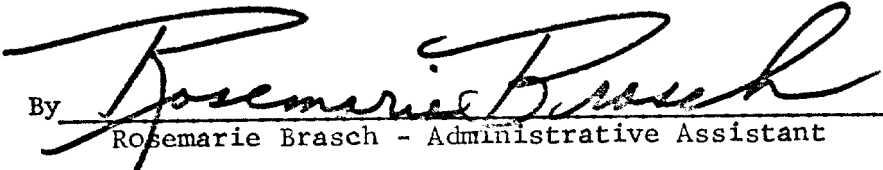
A W A R D

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 19th day of November, 1980.