

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
(
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company (formerly Chicago and Eastern Illinois Railroad Company) hereinafter referred to as the Carrier, violated the terms of Rule 30 of the controlling agreement when Superintendent R. Turner refused to meet with the Local Committee.
2. That the Carrier violated the terms of Article V of the August 21, 1954 agreement when Superintendent R. Turner failed to give a reason for disallowing the claim.
3. That Carmen R. Turnbull and W. Schauer were dismissed from the service of the Carrier effective October 11, 1978. Said dismissal is unjust, unfair and in violation of Rule 30 of the C & E I agreement.
4. That accordingly, the Carrier be ordered to reinstate Carmen R. Turnbull and W. Schauer (hereinafter referred to as Claimants) to the service of the Carrier with all seniority, vacation and all other rights unimpaired. Compensation for all time lost plus payment of all premiums for insurance (Hospital, Surgical, Medical and Group Life) and payment of 6% interest per annum compounded annually on the anniversary date of 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.

Claimants were dismissed from service, effective October 11, 1978 following an investigative hearing held on October 3, 1978. The investigation was convened to determine whether they failed to oil properly the journal boxes of GATX 83429 and pool mark this same car on September 5, 1978. This disposition was appealed on the property and Claimants were subsequently reinstated in March, 1979 on the supposition that the discipline issued served its remedial purpose. The merits of this discipline are contested.

In our review of this case, we concur with Carrier's finding that the journal boxes on both sides of this car were unacceptably low in oil or had no oil in them. Claimants had never denied servicing this car but, rather asserted that they oiled all the cars that needed oil without acknowledging that they serviced this specific car. This defense, is at best, inferential.

The record shows that the crew of Train CSP removed this car at Momence, Illinois some thirty miles from Yard Center because one set of wheels was running hot. Inspection of the car's journal boxes revealed that there was little or no free standing oil in any of these boxes and additionally the car had not been outbound pool marked to show that it was inspected. The report prepared by Carman O'Bryan buttresses this finding and is further affirmed by the Car Foreman's testimony.

On the correlative assertion that Carrier did not supply them with chalk to pool mark the outbound train, we do not find this argument persuasive. Claimants were familiar with the procedures vis this concomitant responsibility and were certainly aware that chalk was needed to perform this task. The record does not indicate that they made any visible or active effort to obtain the chalk, but instead confirms the conclusion that they were indifferent to this ancillary need.

It is indeed fortunate that a serious derailment was averted by the timely discovery of GATX 83429's unsafe condition, but it again underscores the need for vigilant safety enforcement. We do not believe that the actual discipline issued was unreasonable or uncommensurate with the nature of the offense when the disquieting implication of a rail accident are considered. We will deny the claim.

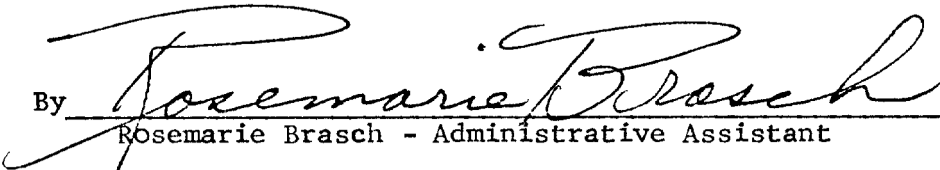
A W A R D

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 14th day of January, 1981.