

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

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Southern Pacific Transportation Company

Dispute: Claim of Employes:

1. That the Southern Pacific Transportation Company (Texas and Louisiana Lines) violated Rules 34 and 28 of the controlling agreement when they unjustly dismissed Carman Apprentice W. Gilbert from their service June 26, 1978.
2. That accordingly, the Southern Pacific Transportation Company (Texas and Louisiana Lines) be ordered to reinstate Carman Apprentice Gilbert to service with all seniority rights unimpaired, time lost toward his completion of apprenticeship and compensate him for all monetary losses retroactive to June 27, 1978, until 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.

Claimant, Carman Apprentice W. Gilbert, was terminated from carrier's employ at the conclusion of 122 days in the apprentice program. A hearing was held into the matter to determine if claimant possessed an aptitude to learn the trade. Carrier concluded at the end of that hearing that he did not. He was subsequently terminated from service.

The organization presented two points for the board's consideration:

- (1) Claimant was never given appropriate training by carrier's personnel. He was set up as a temporary carman on his second day of employment.
- (2) Claimant was denied a fair hearing, because plant manager Appelt assumed a multiple role in the hearing process. He was the charging party, the hearing officer, and the first appeal officer. Based on these two important points, the organization argued that the charges should be dropped.

Carrier, on the other hand, argued that it properly evaluated claimant's performance, as is its right to do. It found claimant lacking in aptitude and proper attitude. It chose to terminate him from the apprentice program. Carrier contends that the organization's argument that claimant received an unfair hearing and evaluation of his claim because of Manager Appelt's multiplicity of roles is not valid.

This board is frequently confronted with claims that carriers have denied employees due process in hearings on the property. Referees in all divisions of the National Railroad Adjustment Board have issued decisions on this point. Their decisions on this issue have gone both ways.

This division, however, has, for the most part, supported the proposition that each of these allegations must be reviewed and decided in light of the record of the particular case involved. We have recently stated this position in Award No. 8147. That decision involves the same carrier, the same organization, the same hearing officer, and the same referee present in this case. The board is of the opinion that our reasoning in that case applies as well in the instant one and we see no evidence that claimant was not granted a proper hearing and evaluation of the record and his case by carrier.

Carrier has the right and obligation to evaluate an apprentice early in his program. One hundred and twenty-two days is specifically identified as an evaluation point. Carrier employed a reasonable evaluation procedure. It covered pertinent points in the development of an apprentice. He was evaluated below standard in craft knowledge; below average in quality of work; and very poor, unreliable, and in need of constant supervision under the item of dependability.

Carrier made a judgment, based on these and other facts, that claimant should not be continued as an apprentice. This board sees no basis on which to fault carrier's decision. The record of this case shows very clearly that claimant was, by no standard, a serious, conscientious, and eager employee. Carrier has no need to continue in its employ a young apprentice who does not show more aptitude and enthusiasm than claimant did.

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 18th day of February, 1981.