

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
{ Union Pacific Railroad Company

Dispute: Claim of Employes:

- (1) That the Union Pacific Railroad Company has unjustly dealt with Carman, Paul Walker, Hinkle, Oregon, when he was dismissed from service on September 16, 1977 for allegedly violating Rules L and 701 (D) of Form 7908 of the Rules and Instructions of the M.P. & M. Department.
- (2) That accordingly the Union Pacific Railroad be ordered to reinstate Paul Walker to his former position as stated in Rule 37 of the Agreement dated November 1, 1976, with all vacation and seniority rights, all Health and Welfare Insurance Benefits, all credit under Railroad Retirement and unemployment Insurance Benefits, pay for all time lost, at the prorata rate of pay of a Carman during the period of his dismissal, and any other benefits he would have earned while dismissed from 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 Paul Walker, held a regular car inspector's job on the third shift in the Hinkle, Oregon, train yards. He has 24 years of service. Claimant was notified on August 24, 1977 that he should attend a hearing into charges that he was sleeping on the job. Carrier alleged that claimant was observed sleeping from 2:10 to 2:15 AM on August 23, 1977. He was charged with violation of General Rules L and 701-D of the Carrier Rules governing Duties and Department of Employes.

Rules L and 701-D read in pertinent part as follows:

Rule L. "Employes while on duty must be alert and attentive."

Rule 701 (D). "Employee must not sleep while on duty."

A careful review of this record reveals that claimant was without a doubt sleeping on the job. It also reveals that claimant has had the same problem in the past and has been spoken to about it by his foreman on numerous occasions. This Board has taken note of the fact that claimant has 24 years of service with carrier and that his record is relatively clear of infractions. While this Board is reluctant to substitute its judgment for that of carrier in such cases, we are of the opinion that claimant should be given one last chance to become a worthwhile employe.

Claimant should understand, however, that his return to work is only on a last-chance basis. If he is again caught sleeping on the job or being inattentive to his responsibilities, he may very well be subject to permanent separation from railroad employment. The time claimant has been held out of service should be sufficient to impress him with the need to be alert and awake while on the job.

A W A R D

Claimant is returned to employment with all rights and benefits, but without payment for lost wages.

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.