

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

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(Burlington Northern Inc.

Dispute: Claim of Employes:

1. Under the current controlling Agreement, Mr. Mark E. Owen, Laborer, Livingston, Montana, was unfairly dealt with when removed from service on February 24, 1978 and later dismissed from employment of the Burlington Northern Inc., on March 27, 1978.
2. That, accordingly, the Burlington Northern, Inc., be ordered to reinstate Mr. Mark E. Owen to service with full seniority rights, compensate for all time lost including fringe benefits, and remove the mark from his personal file.

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, Mark E. Owen, a laborer in carrier's shops at Livingston, Montana, was suspended from carrier's service for allegedly being involved in the theft of a portable welder from the Livingston repair shops. Subsequent to his suspension, an investigatory hearing was held at which claimant did not appear. As a result of that hearing, carrier discharged claimant.

The hearing into this matter also involved a second carrier employe, Ms. Schwartz, a laborer. The welder in this case was found in Ms. Schwartz's garage.

Ms. Schwartz's case has been reviewed by this Board. Our Award No. 8342, Herbert L. Marx, Jr., referee, is the result. This Board upheld the discharge of claimant in that case.

The facts of that case are identical to those facts contained in the record before us in this instance. In our opinion in Award 8342, we stated our reasons and rationale for denying petitioner's claims. We see no reason to repeat that opinion. It is equally applicable to this case.

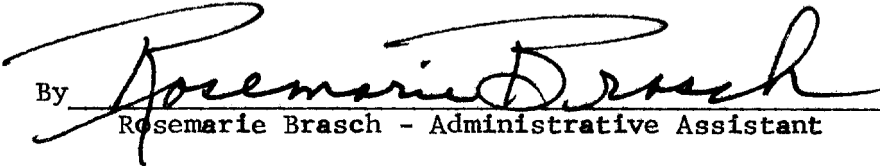
A W A R D

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 25th day of February, 1981.