

The Second Division consisted of the regular members and in addition Referee M. D. Lyden when award was rendered.

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

Dispute: Claim of Employees:

1. That the Norfolk & Western Railway Company violated the controlling agreement of September 1, 1949, as subsequently amended, when on June 16, 1977 Car Repairers E. L. Heilig and P. T. Seagle were given a formal investigation resulting in an arbitrary and capricious assessment of five (5) day deferred suspension against their service record, and Carman P. T. Seagle was required to serve a five (5) day suspension resulting from a previous investigation.
2. That the investigation was improperly arrived at and represents unjust treatment within the meaning and intent of Rule No. 37 of the controlling agreement.
3. That because of such violation and capricious action, the Norfolk & Western Railway Company be ordered to
  - (a) remove such five (5) day deferred suspension from E. L. Heilig's and P. T. Seagle's service record, and
  - (b) compensate P. T. Seagle for all time lost (July 23 through August 1, 1977) plus 7% interest.

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.

A review of the information on formal investigation reveals it to be fair and impartial. Testimony validated that the chains were not properly secured in the side pockets. The claimants were properly charged with the inspection of the out-bound train and also their inspection of TTHX 97129 when it first arrived. The photos taken by assistant Foreman Hill showing the chains were not secure as well as the testimony of Mr. Hill do provide sufficient evidence to conclude the claimants guilty as charged. The chains were not secured either in the pockets

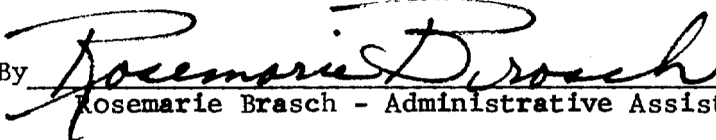
or nailed to the deck of the car. The two employees failed to inspect the cars for which they were responsible. Considering the loose chains could have caused a derailment, the discipline was not harsh or capricious.

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 29th day of April, 1981.