

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

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

Dispute: Claim of Employees:

1. That in violation of the current Agreement, Laborer M. R. Mitchell, Vancouver, Washington, was unfairly dismissed from service of the Burlington Northern, Inc. effective April 19, 1979.
2. That, accordingly, the Carrier be ordered to make Mr. M. R. Mitchell whole by restoring him to service with seniority rights, vacation rights, and all other benefits that are a condition of employment, unimpaired, with compensation for all lost time plus 6% annual interest; with reimbursement for all losses sustained account loss of coverage under Health and Welfare and Life Insurance Agreements during the time held out of service; and the mark removed from his record.

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 was charged with failure to obey instructions issued him by a management official when, on March 13, 1979, at the close of his shift he ignored orders concerning the method of egress from Building 21 on the Carrier's property: he was directed not to depart the facility by a certain door; according to the Carrier, he would have to walk through an area saturated with grease and oil and to cross trackage where switching was in progress. The Claimant demanded a showing of written instructions to that effect and, when none was produced, he proceeded in the departure in defiance of the order. As regards the Organization's defense that the Claimant was being denied use of this path of exit from the facility when other employees were not, the Claimant is better advised to follow the axiom of "obey and grieve", there being no evidence that following the supervisor's directive would have placed him in eminent danger. To the contrary, it apparently would have had the opposite result.

This Board recognizes the gravity of the offense committed by the Claimant in this case and suggests that unanswered challenges to authority can have far-reaching

adverse effects. Without minimizing the importance of this fact, we note that the Claimant had several years service; we order that the Claimant be afforded one last chance to demonstrate his worthiness as an employee and that he can follow instructions issued him while in service or on Carrier property. The Claimant shall be reinstated, with seniority unimpaired, but without back pay.

A W A R D

Claim disposed of in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Frasch - Administrative Assistant

Dated at Chicago, Illinois, this