

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 8788
Docket No. 8641
2-SPT-FO-'81

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 & Oilers
{ Southern Pacific Transportation Company

Dispute: Claim of Employees:

1. That in violation of the current agreement Firemen and Oiler R. A. Andrade was coerced into resigning from the service of the Carrier on September 24, 1978.
2. That accordingly, the Carrier be ordered to make the aforementioned R. A. Andrade, whole by restoring him to Carrier's service with seniority rights unimpaired, plus restoration of all holiday, vacation, health and welfare benefits, pass privileges and all other rights, benefits and/or privileges that he is entitled to under rules, agreements, custom or law and compensated for all lost wages. In addition to money claimed herein, the Carrier shall pay the Claimant an additional amount of 6% per annum compounded annually on the anniversary date of this claim.

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.

On September 24, 1978, Fireman and Oiler R. A. Andrade resigned from carrier's service. The union contends that claimant was coerced into resigning. Carrier alleges that after being notified that he would have to undergo an investigation for failure to protect his assignment on August 26, 1978, claimant resigned voluntarily.

A review of the record of this case clearly reveals that claimant resigned of his own free will and was not, as the union alleges, coerced into resigning. Claimant had been disciplined on a number of occasions prior to August 26, 1978, for absenteeism and tardiness. He knew full well the implications of further discipline and the advantages of leaving carrier's employ with a resignation rather than being discharged. He chose to take the course with the minimum risk. He resigned rather than face charges. Claimant cannot now be heard to cry foul when he was given every chance to make his own decision as to resigning or facing a hearing.

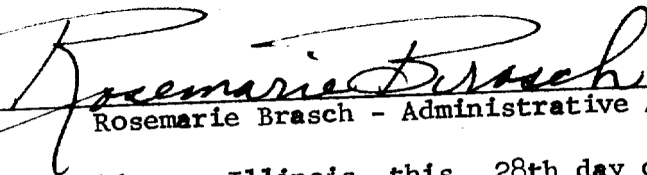
A W A R D

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 28th day of October, 1981.