

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen & Oilers
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Firemen & Oiler Gary A. Barbeck was unjustly suspended and dismissed from service of the Carrier following trial held on February 27, 1979.
2. That, accordingly, the Carrier be ordered to make the aforementioned Gary A. Barbeck whole by restoring him to Carrier's service, with seniority rights unimpaired, made whole for all vacation rights, holidays, sick leave benefits, and all other benefits that are a condition of employment unimpaired, and compensated for all lost time plus ten (10%) percent interest annually on all lost wages, also reimbursement for all losses sustained account of coverage under health and welfare and life insurance agreements during the time he has been held out of 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.

The Claimant was notified to attend an investigation for removing himself from service, leaving Company property without permission, insubordination and falsification of a time card.

Subsequent to the investigation, the Claimant was dismissed from service.

From our review of the transcript of the investigation and the record as a whole, we conclude that the evidence shows that the Claimant was insubordinate when he failed to obey certain orders concerning the movement of a locomotive to the fuel pad. The evidence also supports the conclusion that the Claimant left Company property without permission shortly after the insubordinate actions discussed above.

We have noted various contentions by the Employe concerning an assertion that a paycheck was not delivered in a timely fashion, but we are unable to

conclude that said failure, if it occurred, authorized the Employee to depart the premises in the manner described in the record. There is also evidence to support the conclusion that the Employee falsified his time card.

We find no basis in this record for us to substitute our judgment for that of the Carrier, nor do we feel that the discipline of discharge is arbitrary or capricious under this record. Accordingly, we will deny the claim.

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 10th day of November, 1981.