

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  
( Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. That under the current and controlling agreement, Service Attendant A. D. Williams was unjustly dismissed from service of the Louisville and Nashville Railroad Company on April 10, 1979, after a formal investigation was held in the office of Mr. N. D. Parrish, Conducting Officer, on March 26, 1979.
2. That accordingly A. D. Williams, Service Attendant, be restored to his regular assignment at South Louisville Shops with all seniority unimpaired, vacation, health and welfare, hospital and life insurance, dental insurance be paid and compensated for all lost time, effective March 14, 1979, date Mr. Williams was removed from service, and the payment of 6% interest rate added thereto.

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 March 15, 1979, the Claimant was notified of an investigation concerning a charge that he was away from his assigned work area without permission, and that he was charged with sleeping while on duty.

Subsequent to the investigation, the Employee was dismissed from Carrier's service.

The Claimant testified that he had purchased some cough syrup over the counter which had made him drowsy, although there are no directions on the container which indicated any such side effect. He stated that he was on his lunch break and became very sleepy when he took the cough syrup after the lunch period.

Our review of the record indicates that it is rather obvious that the Employee was asleep while he was on duty, and that he had been asleep for a

significant period of time when discovered. We are unable to find that any of the Claimant's procedural rights were violated during the hearing, or that the question of holding the Employee out of service was properly raised while the matter was under review on the property.

We do not question that, on occasion, it is possible for an employee to obtain some form of medicine which might have some disabling side effects, however, we would certainly expect that the employee would bring that matter to the Carrier's attention in a timely manner.

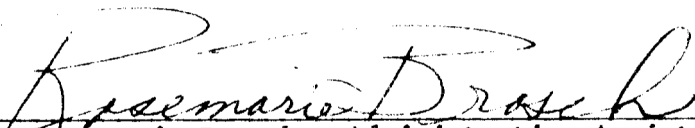
The evidence before us demonstrates that this Employee was asleep on duty, and under all the circumstances, we find no basis for substituting our judgment for that of the Carrier, and we will deny the claim.

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 3rd day of March, 1982.