

The Second Division consisted of the regular members and in addition Referee Clarence H. Herrington when award was rendered.

Parties to Dispute: ( International Brotherhood of Electrical Workers  
( Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. That the Chicago and North Western Transportation Company violated the current agreement when Electrician T. J. Maddigan was improperly removed from service on December 31, 1979.
2. That the Chicago and North Western Transportation Company violated the current agreement when they improperly suspended Electrician T. J. Maddigan from service for a period of thirty (30) days beginning December 31, 1979.
3. That the Chicago and North Western Transportation Company violated the current agreement when Electrician T. J. Maddigan was suspended from service for an additional period of thirty (30) days immediately following the suspension that began on December 31, 1979.
4. That Electrician T. J. Maddigan be compensated for all wages and other benefits lost account of being improperly suspended for sixty (60) days by the Chicago and North Western Transportation Company.

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 employed as Electrician on June 12, 1978. On December 28, 1979, Claimant, as well as other electrical employes, was observed by his supervisor with the lights out in the work area, lunch pails in hand and ready to go home some ten minutes before normal quitting time. The Foreman confronted the employes and gave them three choices; turn the lights back on and go to work for ten minutes; deduct ten minutes from their time card, or be written up for investigation. Four of the employes turned the lights back on and worked ten minutes. The remainder of the employes punched out and went home, with exception of the Claimant, who replied "go ahead and write us up for investigation." Words between the foreman and Claimant ensued and the Claimant was directed to appear for formal investigation which was held on January 16, 1980.

This Board has carefully studied the entire transcript of the investigation and briefs furnished by both parties and finds that the Claimant was, contrary to the Organization's belief, given a fair and impartial hearing and that none of the Claimant's substantive procedural rights were violated.

It is the position of the Organization that the Claimant was not insubordinate inasmuch as he was given three choices by his foreman and by choosing one of the three, an investigation, he was not insubordinate.

This Board cannot agree with the contention of the Organization. The Claimant had two choices pertaining to his work assignment; either turn the lights on and go back to work for ten minutes or deduct ten minutes from his time card. If he refused to comply with one or other of the first two choices, then, by means of elimination, an investigation would be held. The Claimant not only refused to comply with the directive to return to work or deduct ten minutes from his pay but continued to pursue the incident by telling his supervisor that he was "chicken shit" and asked him where he was going to be in twenty minutes. By refusing to obey his supervisor, Claimant placed himself in an untenable position. This Board has consistently held that insubordination in whatever guise or form is just unacceptable in the railroad industry.

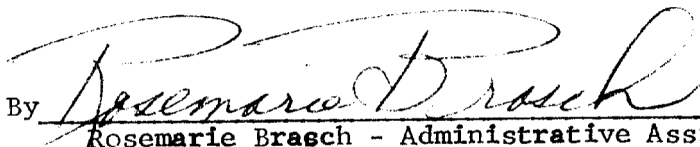
We have reviewed the transcript of the investigation and find that sufficient evidence of probative value was presented at the hearing to support the charge. In view of that evidence, the Board finds the Carrier's assessment of a 30 day suspension well within the bounds of reason.

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