

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

Parties to Dispute: { Brotherhood Railway Carmen of the United States  
and Canada  
{ Belt Railway Company of Chicago

Dispute: Claim of Employees:

1. That as a result of an investigation held on June 1, 1979 Carman Roger Germann and Steve Karko were suspended for a period of nine (9) days. Said suspension is arbitrary, capricious, unfair, unjust, unreasonable and in violation of Rule 20 of the current working Agreement.
2. That the Belt Railway Company of Chicago be ordered to compensate Carmen Germann and Karko for all wages lost as a result of the nine (9) day suspension.
3. That the Belt Railroad Company of Chicago be ordered to compensate Carmen Germann and Karko an additional amount of 6% per annum, compounded annually on the anniversary date of 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 employees 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 May 25, 1979, the Claimants were notified to attend an investigation concerning their responsibility, if any, in regard to an asserted failure to determine that certain cars were of excess dimension, and failure to properly notify authorities of that fact.

Subsequent to the investigation, the Employees were suspended for 9 days.

A procedural question has been raised concerning the sufficiency of the charge, however we are of the view that the Employees were properly notified, within the requirements of the Rules Agreement, of the charges against them.

The evidence presented at the investigation demonstrated that the cars in question struck certain bridges, resulting in damage, and we have noted the evidence that the Employees did not hold the cars in order to identify the actual dimensions.

We are aware of the conflicting evidence of record, however it is not incumbent upon this Board to weigh questions of credibility and to make fact determinations. There is evidence of record sufficient to justify the Carrier's conclusion, if that evidence is accepted, and under the circumstances we have no recourse other than a denial of the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 19th day of May, 1982.