

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 and Oilers
{ Denver and Rio Grande Western Railroad Company

Dispute: Claim of Employes:

1. That in violation of the current Agreement, Mr. Phillip Quintana, Laborer, Denver, Colorado, was unjustly suspended and dismissed from service of the Carrier following hearing held on date of January 18, 1979.
2. That accordingly, the Denver and Rio Grande Western Railroad Company be ordered to reinstate Mr. Phillip Quintana to service with seniority rights, vacation rights, and all other benefits that are a condition of employment, unimpaired; with compensation for all lost time plus 6% annual interest.

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 Phillip Quintana is a Laborer in Carrier's Burnham Shops in Denver, Colorado. On December 21, 1978, Claimant was observed by two supervisors in a prone position on a bench in the shop locker room. Claimant was told by his supervisor to punch out and go home. Claimant was subsequently given notice to attend a hearing into the matter to determine the facts and place responsibility, if any, in connection with Claimant's alleged failure to attend to his duties on the date in question.

The hearing was held on January 18, 1979. As a result of that hearing, Claimant was found guilty as charged and dismissed from service, effective January 25, 1979. A copy of the transcript of that hearing has been made a part of the record of this case.

The Organization claims that Carrier acted in an arbitrary and capricious manner, abused its managerial discretion, and dismissed Claimant for reasons other than those he was charged with. Carrier contends Claimant was in fact sleeping on the job and did not respond to the public address system when called. When this infraction is considered together with his poor work and time and attendance record, it must be concluded that Carrier had more than sufficient grounds to discharge Claimant.

A review of the record of this case reveals that Claimant was afforded all procedural and substantive rights due him by agreement and that he was, in fact, guilty of failure to attend to his duties and willful neglect of duty. He was observed sleeping by two supervisors. Sleeping on the job can be grounds for dismissal from service, as this Board has so stated (see Award No. 8712, LaRocco) on numerous occasions.

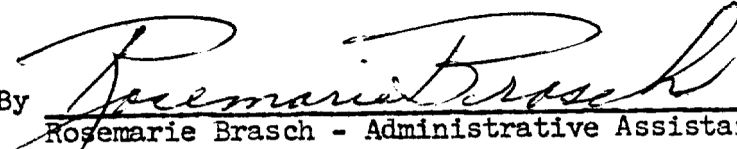
When this infraction is considered in light of Claimant's past record, numerous incidents of failure to protect his assignment, and a dismissal and reinstatement on a leniency basis, it must be concluded that there is no basis on which the Board can modify or set aside the discipline in this case.

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 - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of June, 1982.