

The Second Division consisted of the regular members and in addition Referee Thomas V. Bender when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. Freight Car Repairman Robert E. Rust was erroneously charged with failure to properly store Company material resulting in a safety hazard on June 9, 1979.
2. Freight Car Repairman Robert E. Rust was unjustly assessed five (5) days actual suspension on July 13, 1979, following investigation held July 6, 1979.
3. That the Chicago and North Western Transportation Company be ordered to compensate Freight Car Repairman Robert E. Rust eight hours pay per day for the five days he was unjustly suspended, plus all benefits to which he is entitled in accordance with Rule 35.

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 is a freight car repairman at Carrier's Proviso Repair Track facility. On or about June 9, 1979 at 6:00 a.m., the Claimant was working on Track 8. While changing a wheel he was observed throwing a roller bearing adapter out the door of the repair facility. A scrap bin is provided for collection of scrap. This bin was in the immediate vicinity of the Claimant.

The Carrier suspended the Claimant for five (5) days. This discipline was based on the fact that the Claimant's actions created a safety hazzard. The Claimant's activity was observed by acting foreman, Ileja A. Ivkovic. Instead of confronting the Claimant, acting foreman Ivkovic chose to report the incident to the General Car Foreman.

In view of the circumstances the Board finds the five (5) day suspension excessive. The five (5) days is hereby reduced to one (1) day.

Form 1
Page 2

Award No. 9163
Docket No. 9220
2-C&NW-CM-'82

A W A R D

Claim sustained in accordance with the Findings.

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 30th day of June, 1982.