

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

Parties to Dispute: (International Brotherhood of Firemen and Oilers
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(Southern Pacific Transportation Company

Dispute: Claim of Employee:

1. That under the current agreement Firemen and Oiler C. S. Olmsted, was unjustly suspended from the service of the Carrier, from March 12, 1979 through April 10, 1979.
2. That accordingly, the Carrier be ordered to:

Compensate the aforesaid employee for all time lost from March 12, 1979 through April 10, 1979, at the pro-rata rate of the position he held at the time he was suspended.
3. In addition to money claimed herein, the Carrier shall pay the Claimant an additional amount of 6% per annum compounded annually on the anniversary date of this 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 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.

Under date of March 12, 1979, Claimant was cited to attend a formal hearing on March 16, 1979, "in connection with your alleged insubordination at approximately 8:40 AM, March 11, 1979, when you disregarded General Foreman R. E. Palmiter's direct order to remain on the company property, for which occurrence you are hereby charged with responsibility, which may involve violation of Rules 801 and 810 of the General Rules and Regulations, those parts reading: Rule 801 'Employes will not be retained in the service who are ... insubordinate...' Rule 810 'Employes ... must not absent themselves from their employment without proper authority...'"

The investigation was held as scheduled, and by letter dated March 28, 1979, Claimant was notified that he was suspended for 30 days for violation of the above quoted rules.

Evidence adduced at the investigation revealed that at about 8:30 on the morning in question Mr. Olmsted was summoned to the office of General Foreman R. E. Palmiter because he was suspected of being under the influence of alcohol. Mr. Palmiter asked Claimant if he was feeling all right, and Mr. Olmsted replied that he was. Questioned as to whether or not he had been drinking, Claimant denied such; however, when requested to take a sobriety test he refused to do so. When Mr. Palmiter then sent for another Carrier officer to observe Claimant, Claimant proceeded to leave the property in violation of several orders by Mr. Palmiter to remain in this office.

We have carefully studied the record and find that the evidence fully supports Carrier's findings that Claimant violated the cited rules. We further find that the investigation was fairly and properly conducted without procedural error. Further, the discipline assessed was not unreasonable.

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 22nd day of July, 1982.