

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 Electrical Workers
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(Burlington Northern Railroad Company

Dispute: Claim of Employees:

1. That in violation of the current agreement, the Burlington Northern Inc., arbitrarily disciplined Shop Electrician C. B. Stuart by entering a mark of censure on his personal record.
2. That although Electrician C. B. Stuart was not the FRA Inspector of record, the Burlington Northern Inc., attempted to force Electrician C. B. Stuart, under threat of Investigation to fraudulently sign his name for federal inspections on a diesel locomotive which he had not made.
3. That the Burlington Northern Inc., the moving party failed to introduce evidence, which would have clarified Electrician Stuart's job assignment, by not calling Mr. Stuart's direct supervisor as a witness.

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.

C. B. Stuart is employed as an electrician at Carrier's roundhouse at Denver, Colorado. On April 13, 1979, Claimant Stuart was assigned to perform the Federal Inspection on Locomotive 6471, which he did. It was then incumbent upon Claimant to sign the Federal card attesting that the inspection had been completed. Without Claimant's signature on the card, the inspection would have to be repeated so that one inspector would sign the card. Claimant refused to sign the card. When confronted, he advised that he would not sign the card because the generator pit was greasy which constituted a federal defect.

Claimant was asked to report to the Assistant General Foreman's office where it was carefully explained to him that his signature on the card attested only to the

fact that the inspection had been completed. It was further explained to Claimant that it was the foreman's responsibility to insure that any defects discovered by the inspection were corrected and the foreman's signature on the card would attest that the defects were corrected. Claimant was asked if he had noted the defect on the card and he said he had. The card verified this.

The Claimant was again instructed to sign the card. He refused. The Assistant General Foreman re-explained Claimant's obligations and again instructed Claimant to sign the card. Claimant still refused. Claimant was told to sign the card or a formal investigation would be necessitated. Claimant persisted in his refusal.

We consider the Organization's grounds of appeal of Mr. Stuart's censure.

We have studied the form which Claimant was directed to sign and find that Carrier ~~was~~ entitled to demand that he sign such form. There would have been no misrepresentation, express or implied, in his complying with the instruction to affix his signature as directed. It appears that Claimant, actually at the risk of serious discipline for insubordination, had received some bad advice as to his responsibility relative to the matter.

Claimant, contrary to the Organization's position, was afforded a fair investigation. There is no showing that had Dennis Meyer been called as a witness he would have shed any relevant light on the matter or exonerated Claimant to any degree.

Claimant's refusal to sign the form was based on the reason set out above; his claim that he was only assisting Severo DeLeon was not mentioned when he refused to follow instructions. Further, he ~~was~~ not "assisting" DeLeon.

From the record we find no justification for disturbing the discipline assessed.

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 28th day of July, 1982.