

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

Parties to Dispute: { International Association of Machinists and
 { Aerospace Workers
 { Kansas City Southern Railway Company

Dispute: Claim of Employees:

1. That the Kansas City Southern Railroad violated the controlling Agreement, particularly Rule 29, when they unjustly suspended Machinist R. H. Cheek from service May 12, 1980 through May 26, 1980.
2. That accordingly, the Kansas City Southern Railroad Company be ordered to compensate Machinist R. H. Cheek in the amount of eight (8) hours per day at the pro rata rate of pay beginning May 12, 1980 through May 23, 1980, and to include all vacation rights, insurance benefits and all other rights he may be entitled to.

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.

On April 1, 1980 Claimant R. H. Cheek, a machinist, was served with a Notice of Investigation "for the purpose of ascertaining the facts and determining your responsibility in connection with your failure to properly torque crab studs after changing #4 head, unit 655, March 14, 1980".

Unit 655 failed on Train #77 on March 22, 1980. The investigation was held on April 28, 1980 and on May 6, 1980 the Carrier's Superintendent of Safety wrote to Claimant that "The investigation developed that Machinists R. H. Cheek and C. W. Hyde did fail to properly torque crab studs after changing #4 head on unit #655, March 14, 1980 causing this unit to fail on March 22, 1980". A suspension of ten working days was recommended and Claimant was suspended for ten working days from May 12th through May 26, 1980.

A review of the record before this Board establishes that the April 1, 1980 notice of investigation provided sufficient particularity to permit Claimant to properly prepare a defense for the allegations contained therein, and that Claimant was properly afforded all the procedures provided by the contract. Although the

broken crab stud in question was not presented at the hearing, the record further establishes that the Diesel Shop Foreman and two machinists, with 21 and 15 years experience respectively, examined the unit when it ceased functioning, and found the broken top right crab stud on an assembly which Claimant and another had worked on several days prior, that the torque on the other crab studs in the assembly were very substantially below the recommended 1800 foot lbs, and that they concluded, based upon experience, that the failure to torque the other studs to the proper value put excessive pressure on the right top crab stud causing it to crack and the unit to shut down. There was substantial evidence in the record to sustain the Carrier's decision to discipline Claimant and we may not substitute our judgment for that of the Carrier. The penalty imposed was a reasonable one for the resulting unit shut down.

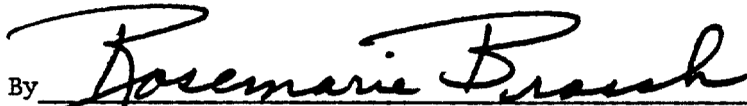
A W A R D

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 18th day of August, 1982.