

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States  
{ and Canada  
{  
{ Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

No. 1. That Carrier violated rules of the controlling Agreement, when on the date of July 11, 1980, they subjected Claimants, J. J. Wagner and J. L. Robbins, Benwood, W. Va., car inspectors, to an arbitrary and obviously unfair and partial investigation, such charges, "being absent from your assignment without permission from approximately 3:00 A.M. to 3:50 A.M.," allegedly, on the date of May 29, 1980, such investigation inflicted upon Claimants without provocation or merit, hearing notice issued by Carrier lacking any rule violation on the part of Claimants, therefore such notice not precise as per the provisions of Rule 32 of the controlling Agreement, and that Claimants contractual rights were violated, when, as a result of the heretofore mentioned investigation, Carrier rendered and equally arbitrary and unfair decision as an obviously contrived result, that both Claimants, Wagner and Robbins be disciplined to the extent of 30 days actual suspension, effective 7:00 A.M., August 1, 1980.

No. 2. That Carrier be ordered to compensate Claimants for all losses incurred account of such discipline, not only with respect to monetary losses, but including loss of any and all benefits to which Claimants may be entitled, as a result of such discipline.

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 June 2, 1980, Claimants, J. T. Wagner and J. L. Robbins, Carmen in Carrier's employ at Benwood, West Virginia, were charged with being absent from their assignment without permission on May 29, 1980, from 3:00 A.M. to 3:50 A.M. A hearing in the matter was held on July 11, 1980. Claimants were found guilty as charged and each assessed a 30-day suspension without pay.

The Organization alleges, among other things, that Claimants were not afforded a full and fair hearing and that the charges that were raised were not related to a rule violation. Claimants were on their lunch hour and were not off the property for 50 minutes, as Carrier claims, but were off for only 20 or 25 minutes. The Organization also contends that Carrier personnel were "out to get" Claimants and that the 30-day suspension was the result.

This Board has carefully reviewed the file in this case and must conclude that Carrier has not acted in an arbitrary and capricious manner and that Claimants were guilty as charged. The assessment of a 30-day suspension in this instance is not unreasonable and this Board can find no basis on which to upset Carrier's action.

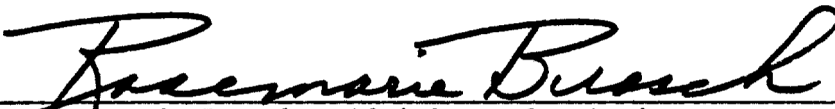
A W A R D

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 May, 1983.