

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

Parties to Dispute: { International Brotherhood of Firemen and Oilers
{ Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer Steve M. Buccieri was unjustly dismissed from service of the Carrier following trial held on August 27, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned Steve M. Buccieri whole by restoring him to Carrier's service, with seniority rights unimpaired, made whole for all vacation rights, holidays, sick leave benefits, and all other benefits that are a condition of employment unimpaired, and compensated for all lost time plus ten (10%) percent interest annually on all lost wages, also reimbursement for all losses sustained account of coverage under health and welfare and life insurance agreements during the time he has been held out of service.

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, Steven M. Buccieri, was employed as a laborer at the Carrier's Brier Hill Car Shop, Youngstown, Ohio. On August 7, 1980, the Carrier sent notification to Claimant, advising him that he was held out of service beginning August 7, 1980. And on August 13, 1980, the Carrier sent a directive to Claimant, instructing him to appear for a trial on August 27, 1980 on the following charge:

"Your discharging of a firearm in the vicinity of the Brier Hill Carpenter Shop, Youngstown, Ohio, at approximately 3:25 PM, August 7, 1980, resulting in injuries to Conrail employee J. G. Hoover, Carpenter.

Violation of Safety Rule 4012 - 'Personal conduct must be free from scuffling, practical jokes or horseplay while on duty or on company property'. This rule is found in Conrail

Safety Rules for Maintenance of Equipment Employees.

Witnesses: H. C. August, C. R. Julian, S. A. Russo, A. G.
Koss, K. L. Morris"

The trial was held as scheduled, and on August 29, 1980 Mr. Buccieri was notified by the Carrier that he was found guilty of the above set forth charges and as a result was dismissed from service.

We have reviewed the entire record and the contentions of the parties and we find that substantial evidence of record supports the Carrier's finding that Mr. Buccieri was guilty of the charge of violating Safety Rule 4012 when he discharged a firearm causing injury to employee J. C. Hoover. Mr. Buccieri admitted his responsibility in this extremely serious matter; and testimony of Messrs. Koss, Russo and Julian without a doubt demonstrates that he was in fact responsible. The discipline of dismissal is neither arbitrary, capricious nor excessive. We shall deny the claim.

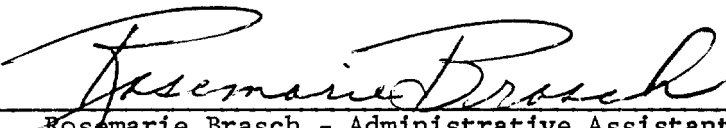
A W A R D

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 15th day of June, 1983.