

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute:     {   International Brotherhood of Electrical Workers  
                              {   Southern Pacific Transportation Company (Pacific Lines)

Dispute: Claim of Employees:

1. That under the current Agreement, Mechanical Department Electrician A. Kendrick was unjustly treated when he was removed from service on February 21, 1980, and subsequently dismissed on March 12, 1980, following investigation for alleged violation of portions of Rules 801 and "J" of the General Rules and Regulations of the Southern Pacific Transportation Company (Pacific Lines). Said alleged violation occurring on February 21, 1980.
2. That accordingly, the Southern Pacific Transportation Company (Pacific Lines) be ordered to:
  - (a) Restore Electrician Z. Kendrick to service with all rights unimpaired including service and seniority, loss of wages, vacation, payment of hospital and medical insurance, group disability insurance, railroad retirement contributions, and loss of wages including interest at the rate of ten percent (10%) per annum.

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.

Claimant was classified as an Electrician and assigned to the Carrier's Diesel Maintenance Plant at Los Angeles, California at the time of events germane to this dispute. On February 21, 1980 while on duty and under pay, Claimant was observed by a supervisor while on a locomotive; he was not wearing a hard hat as required, was wearing tennis shoes, in further violation of safety rules, and was carrying a long, wooden stick. The supervisor called him off the unit; the Claimant disembarked in a manner not in compliance with procedure, whereupon he was instructed of his safety deficiencies. The record shows the Claimant went to his locker, obtained his hard hat, returned and offered to go home to change his shoes but refused to rid himself of his stick. He was removed from service and told to leave the property. He refused to do so without receiving his pay

check first. His refusal was answered by the calling of a security patrolman; the Claimant continued his untoward behavior by carrying on a conversation with the patrolman's guard dog, which the Claimant said was "possessed". He continued to resist even when a steward intervened. A second security officer was called. The Claimant's actions were reviewed in a formal hearing during which time he indicated that he came to work intoxicated. He was dismissed from service.

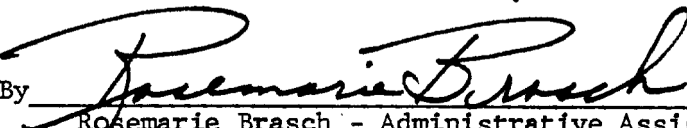
The Carrier points to the fact that the Claimant had previously been terminated and reinstated twice in his six (6) years of service; the record shows the last such reinstatement came only several weeks prior to this incident. The Organization asserts that the Claimant was not insubordinate, entitled to retain his stick as a walking aid and otherwise was not guilty of the charges; it contends the Carrier's actions were arbitrary and capricious. We find no error on the Carrier's decision to dismiss the Claimant. His own testimony affirmed his irrational actions, which were clearly insubordinate and disruptive. Given his prior discipline, termination was fully justified.

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 13th day of July, 1983.