

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

Parties to Dispute: (International Association of Machinists
(and Aerospace Workers
(Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

That Machinist G. R. Harrelson, who worked at the Louisville and Nashville Railroad's Howell Diesel Shop, Evansville, Indiana, as the result of an unfair investigation conducted March 6, 1979, was improperly issued a 30-day suspension from service.

As a result of the Carrier's failure to prove their charges, Mr. Harrelson's 30 day suspension was improper. Therefore, he should be paid for 30 days he was improperly dismissed and made whole for the loss of any rights or privileges lost as a result of the improper suspension.

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 employes 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 February 16, 1979 Claimant, B. R. Harrelson, who had been employed in the service of the Carrier for approximately twelve (12) years, and who held the position of machinist, received notice to attend an investigation on March 6, 1979. Claimant was charged with failure to properly service locomotive 4060 on train 791 while it was in the diesel shop on February 12, 1979 at Carrier's Howell Shops, Evansville, Indiana. After the hearing was held as scheduled Claimant Harrelson was notified by letter dated April 4, 1979 that he had been found guilty as charged. He was suspended from service without pay for a thirty (30) day period, effective April 1, 1979 through May 4, 1979 inclusive.

Claimant was specifically charged with allowing locomotive unit 4060 to depart from the Evansville shop on train 791 on the date in question without adding the necessary amount of oil to the engine crankcase thus causing the engine to shut down at Henderson, Kentucky with low oil pressure.

The record before the Board shows that when unit 4060 was brought to the Evansville facility for repairs that Claimant did check the oil level when the engine was dead and that it showed a reported 8 to 12 inches on the dip stick. He did not further check the oil level when the engine was hot and idling, however, which are the proper conditions under which to ascertain this information. Claimant stated in the hearing that he was unaware that all repairs had been made and that the engine had been started prior to the completion of his shift.

It was Claimant's responsibility to have informed himself of the exact disposition of unit 4060 prior to the end of the shift, or to have informed supervision of any problem encountered in having the oil properly checked since pipefitter Will, Claimant's co-worker that night, agreed in hearing that the unit was repaired and running prior to the end of the shift, although the engine may not have been yet to the appropriate temperature level in order that the oil could have been checked in the proper manner.

As machinist working the top of the unit in question it appears clear, from the record, that Claimant was negligent in his responsibilities when unit 4060 was permitted to leave the Evanston facility on train 791 without having been properly checked. It is also the position of the board, however, that the negligence shown by Claimant was shared by Carrier's supervision when it was assumed that unit 4060 was ready for departure by the end of the shift under consideration without having written or oral proof thereof.

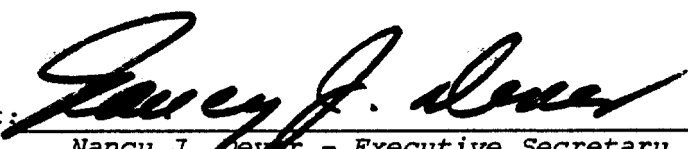
The Claimant is not without blame in the instant case. Given the circumstances, however, as reported in the record before the Board, it finds the thirty (30) day actual suspension to be unreasonable and excessive and directs that the discipline be reduced to loss of pay for ten (10) working days. It further directs that Claimant be reimbursed for any other loss of pay incurred during the thirty (30) day suspension.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of October 1983.