

Parties to Dispute: ( Arthur Aigner and Dean A. Engelhardt  
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( Soo Line Railroad Company

Dispute: Claim of Employees:

We feel the decision by Mr. D. J. Tepp, and those concerned was much to severe for the two or three minutes we failed to perform other than company business. The reasons are as follows:

1. Mr. E. D. Marson of the Chicago NorthWestern police told me what we attempted to take was of no value, and did not pursue the issue since the truth was said.
2. The three ties were scrapped the same sort of junk the Soo Line paid a local contractor over \$75,000.00 to haul away to the dump, and is still paying a garbage collection contractor to haul to the dump.
3. Driving on the C&NW property was done by many of us to save time and miles to perform our duties, which we were doing at that time.
4. I have served the company 15 years, and did jobs no one else would do or did not want to do for no extra credit or pay.
5. The termination of my employment affects me, my family, and the feelings of other people towards me that I know. This alone is punishment by it self.
6. There is a ten minute lunch break which can happen any time. Sometimes it has to be broken up by taking a few minutes here and there. It depends upon the duties of the night.
7. I dare say that anyone reading this appeal, can they truthfully say they did not waste two or three minutes of company time some time or other.
8. It seems to me that there was a set up between the Soo Line and the C&NW. If our matter was so serious, how come the C&NW did not charge us for attempting to steal. Also, how come it took Mr. Tepp so long to write us up, if our charge was so serious?
9. It seems strange to get dismissed from Company Service, and not get charged for attempting to steal from another, because of two or three minutes wasted.
10. There is a point I would like to make on my behalf (ARTHUR AIGNER) when at the investigation I said, I wanted a tie for the house, I did not. Mr. Engelhardt wanted those ties. He was lead person, and driving the Company truck. I got involved when he picked me up from my job I done.

11. I know of four cases, one of which got caught stealing new materials right on Soo Line property. He got 30 days off. Another falsified his time card. He got 30 or 60 days off. Another got caught stealing new ties. He threatened and fought with the person who caught him. He got back to work also. These cases happened after ours, and were new materials from Soo Line property, and cheating Soo Line time cards. There is a case going on now. He was fired 2 or 3 times for doing worse. He got back every time. He is serving six months off now.
12. Our General Chairman, Dale Pierce went into Mr. Tepp's office, and discussed our case. Mr. Tepp then, at that time stated if we told the truth he would show us some leniency. As we can see, there was none shown, we got the worse you can get.
13. At the time of our investigation a tape recorder was being played, but everytime a point was being made by the union, Mr. Borchert would shut it off. We were in the office 2 1/2 hours, only 1 1/2 hours showed. Is this being fair and honest?
14. My final statement is in which we, and other Soo Line employes have seen Mr. Tepp (Plant Manager) on Soo Line Property take new plywood, paneling and other new materials out of the mill room at night, for his own personal use. Also Mr. Tepp has called men in on over time to do personal work for him. Like painting a truck. If this is not falsifying a time card, what is then?
15. We feel that we were discriminated against, or used for examples, for what we did.

We would like to request a hearing by the board for the reasons above. We have seen lawyers upon lawyers for this case. All of which cost us time and money. We were treated unfair.

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 were given due notice of hearing thereon.

Claimants have submitted this case to the Board challenging the Carrier's determination of guilt and the assessment of discipline of dismissal for an incident occurring September 9, 1979.

We have been presented with Public Law Board No. 2790, Awards 1 and 2 involve the identical issue. The only difference is that the Organization handled the matter before Public Law Board 2790 and the Claimants have represented themselves before this Division. Awards 1 and 2 of Public Law Board 2790 were rendered on December 12, 1980. Claimant's notice to this Board was dated January 27, 1983. The Awards of Public Law Board 2790 disposed of the matter submitted in this case and the matter is now res judicata. Such determinations may not be reheard by this Board (Second Division Award 8551; Third Division Awards 22406, 22736). We will dismiss the claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of November 1983.