

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

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers- A.F.L. - C.I.O.
(
(The Denver & Rio Grande Western Railroad Co.

Dispute: Claim of Employees:

1. That under the terms of the Agreement Richard A. Sabel was unjustly dismissed from Service of the Denver and Rio Grande Western Railroad Company on April 8, 1981.

2. That accordingly the Carrier be ordered to reinstate claimant to his former position with all rights restored, including Seniority Rights unimpaired, compensation for all time lost, and made whole for all other benefits, and premiums from Carrier Service retroactive to April 8, 1981.

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 R.A. Sabel is a Machinist in Carrier's employ at its Burnham Diesel Shop in Denver, Colorado. On March 27, 1981, Carrier alleges that Claimant was sleeping on duty in the cab of Locomotive 3324. A hearing into the matter was held on April 1, 1981. A transcript of that hearing was made a part of the record of this case. A review of the record reveals that Claimant was sleeping on duty and that he received a full and fair hearing into the matter.

This Board is fully aware that it has no authority to substitute its judgment for that of Carrier in discipline cases. It does have authority to review records and take into account the mitigating circumstances of each case. In the instant case, it is this Board's opinion that as a long service employe, Claimant should be granted one last chance to mend his ways and become a worthwhile, productive employe. He must realize that in order to keep his job, he must show up at work on time and on a regular basis. Any future infractions of the rules will most assuredly lead to Claimant's permanent dismissal from Carrier's Service.

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Award No. 9789
Docket No. 9577
2-D&RG-MA-'84

This Board will reduce Claimant's dismissal to a suspension of time served.

A W A R D

Claimant shall be returned to work with seniority intact but without pay for lost time or benefits.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of February, 1984