

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

Parties to Dispute: ( International Brotherhood of Firemen and Oilers  
(  
( Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. Under the current controlling Agreement, Mr. T. L. Jones Laborer, Chicago, Illinois, was unjustly dealt with when suspended for a period of thirty (30) days, September 19; 1981 through October 19, 1981, following hearing held on September 9, 1981.
2. That accordingly, the Chicago NorthWestern Transportation Company be ordered to compensate Mr. Jones for all time lost at the pro rata rate and the mark removed from his record.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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 August 27, 1981, T. L. Jones, the Claimant, was assigned as a fuel truck driver at the Carrier's Proviso Yard. On that day, the Claimant's vehicle became stuck in mud up to its axles. As a result of that occurrence, he was directed to attend an investigation in connection with his charged "responsibility for mishandling of Company equipment". The Organization does not believe the evidence adduced at the investigation support the Carrier's finding of guilt. The Claimant, according to the Organization, had only been on the truck driving job for three weeks and had never traveled that route before. The Organization asserts the Claimant, unfamiliar with the area, became confused and, rather than risk an accident attempted to turn the truck around.

On the contrary, this Board finds the record materially supports the Carrier. The road was properly marked. Driving the fuel truck off the road was a negligent act. We, therefore, find the weight of the evidence supports the Carrier's actions, and we will not disturb the penalty assessed.

Form 1  
Page 2

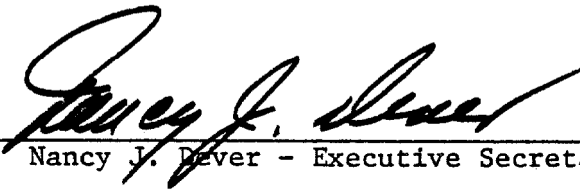
Award No. 9828  
Docket No. 9820  
2-C&NW-FO-'84

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: \_\_\_\_\_

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 7th day of March, 1984.