

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

Parties to Dispute: (International Association of Machinists
(and Aerospace Workers, AFL-CIO
(
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the Consolidated Rail Corporation be ordered to remove the discipline of two days suspension - deferred, from the service record of Machinist C. Atkins.

2. The Agreement of May 1, 1979 is controlling.

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.

An investigative hearing was held on March 19, 1980 to determine the Claimant's responsibility in connection with an alleged failure to replace a missing brake shoe on Engine 2908 on February 20, 1980.

Subsequent to the investigation, the Claimant was notified that he had been found guilty and he was assessed a two-day deferred suspension from duty.

The Carrier raises a threshold procedural objection to the movement of this case to the Board for review. It contends that the Employee's Statement of Claim does not conform to the requirements of Circular No. 1 of the National Railroad Adjustment Board, because the claim neither stated the question involved nor described the dispute. The Carrier's contention in this respect is a reasonably arguable one. However, the record is clear that the Carrier understood the nature of the dispute, the reasons for it, and the relief requested by the Claimant. Accordingly, we find that the issue at dispute is appropriately before the Board on its merits.

The Claimant, a Machinist, was responsible for trueing wheels on Engine 2908 on February 20, 1980. This function also included the replacement of brake shoes when found necessary.

We have reviewed the record in its entirety and are satisfied that the Claimant did, in fact, work on Locomotive 2908 on which a brake shoe was missing. Testimony and other evidence in the record shows his performance of a duty with respect to the replacement of the missing brake shoe was inadequate. It is not incumbent upon the Board to substitute its judgement for that of the Carrier if there is evidence to support the finding of guilt and we find such evidence here. Therefore, inasmuch as the Board does not find the punishment assessed arbitrary or capricious, the claim is denied.

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 11th day of April, 1984