

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

Parties to Dispute: ( Brotherhood Railway Carmen of the United States and Canada  
( Illinois Central Gulf Railroad Company

Dispute: Claim of Employees:

1. That under the current Agreement, Carman M. L. Williams was unjustly suspended from the service of the Illinois Central Gulf Railroad for a period of seven (7) working days beginning the time he was clocked out on March 26, 1981 and continue through Friday, April 3, 1981, as a result of an investigation which was held on Tuesday, March 31, 1981.
2. That accordingly, the Illinois Central Gulf Railroad be ordered to compensate Carman M. L. Williams for all time lost, days to be applied for his vacation, and any and all benefits he would be entitled to as a condition of employment account of the aforementioned unjust suspension.
3. That Carman M. L. Williams did not receive a fair and impartial hearing as provided in Rule 39 of the current agreement.

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.

Claimant M. L. William is a Carman employed at Carrier's Central Car Shop. On March 26, 1981, he was notified that he was to attend a formal investigation to determine the validity of the following charges:

Refusing to obey a direct order from your immediate supervisor concerning assignment of work at approximately 11:15 a.m., Thursday, March 26, 1981.

Refusing to obey a direct order from your immediate supervisor to go to the Production Superintendent's office to discuss your refusing to accept a work assignment at approximately 11:20 a.m., Thursday, March 26, 1981.

A hearing into the matter was held on March 21, 1981. As a result of that hearing, Claimant was found guilty as charged and assessed a seven (7) working day suspension. A transcript of the hearing has been made a part of the record of this case. We have carefully reviewed the transcript of the hearing and are not persuaded that Claimant was guilty of insubordination in any way. Clearly, he was having a discussion about what work he wanted to do and where he wanted to work, but the record does not contain any statement by the Foreman or Claimant that would lead one to conclude that Claimant refused a direct order, as is required to prove insubordination.

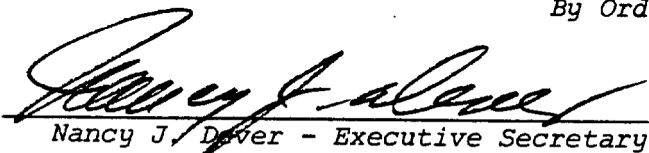
After a review of the record before it, this Division is compelled to sustain the instant claim.

A W A R D

Claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1985.