

The Second Division consisted of the regular members and in addition Referee James R. Cox when award was rendered.

Parties to Dispute: ( International Association of Machinists and  
( Aerospace Workers  
(  
( Southern Pacific Transportation Company

Dispute: Claim of Employees:

Claim in behalf of Machinist G. L. Burford, for the punitive rate of pay to be paid each day he is off work due to the Carrier denying him of his work entitlement under the controlling Agreement. Claim commences October 8, 1982, and is continuing, as per Rule 32 (d) for all subsequent violations.

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, Machinist G. L. Burford, was suspended October 8, 1982, for (1) being under the influence of alcohol while on duty in violation of Rule G, and (2) because he was "insubordinate, dishonest, quarrelsome or vicious" as proscribed by Rule 801. Following a Hearing, Claimant was dismissed from the Service of the Southern Pacific Transportation Company. In December, however, following intervention of the Organization, he was reinstated with full seniority but without backpay for the October 3, 1982-December 8, 1982, period. This Claim seeks compensation for that period.

Just before the incident which led to his discipline, the Diesel Service facility where he was employed had been struck. In the course of that dispute, certain supervisors crossed the picket lines and Burford made accusations against them which could have resulted in loss of their withdrawal cards. Some of these supervisors were involved in the incident which led to his October discipline.

October 8th, Burford's supervisor, Coglin, along with two other foremen was in the office at 11:30 a. m. when Burford came in and put his timecard down. When asked how many motors he had completed that morning, he responded that the foreman already knew how many had been finished. An argument followed and Burford was then brought into the general foreman's office. When again asked how many motors had been completed, Burford responded that he had finished two. He was then told to return to work. Burford left the general foreman's office but, contrary to his instructions, after an interval, returned to the foreman's office and resumed his argument. Foreman Coglin reported that at this point he smelled alcohol on Burford's breath. Burford pointed his finger at Coglin and when Coglin objected, Burford pointed again, telling the foreman to "grab it" and that he would "meet me outside the gate and any other place I would meet him."

Burford left the office and returned to his work area. It was there that he was taken out of service.

Two supervisors corroborated Coglin's assertion that Claimant's breath smelled heavily of alcohol. While one foreman claimed that Burford's eyes were bloodshot, and others asserted that he talked unusually slow and lost his train of thought, testimony established that he did not stagger, slur his words or show any other signs of intoxication.

A Machinist who worked with Burford, said that their assignment the evening of October 8th was to rebuild four traction motors. They had completed two when a crane essential for this work broke down. He denied Burford had been drinking that day and had not noticed any alcohol on his breath.

The Board finds that the Carrier had cause to find insubordination and a violation of Rule 801 based upon Burford's failure to follow the general foreman's instruction to return to work and his challenge to meet Foreman Coglin "outside". While we find the evidence insufficient to establish intoxication, the two month suspension is not unreasonable considering the repeated acts of insubordination.

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 6th day of March 1985.