

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Dispute: Claim of Employes:

1. Under the current controlling Agreement, Mr. George Mathews, Laborer, Milwaukee, Wisc. was unjustly dealt with when suspended from service of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, for a period of thirty (30) days (October 18, 1979 through November 16, 1979).
2. That, accordingly, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to compensate Mr. George Mathews for all time lost at the pro rata rate.

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 was subject to an investigative hearing on the following charge:

Violation of General Safety Rule "A" and Safety Rule #160 in that on September 1, 1979 at approximately 10:35 AM he was assigned to move Amtrak heat tender #660 from building L. D. 36 to building L.D. 1 and that in doing so he violated the above safety rules resulting in damage to building L.D. 36.

Safety Rule "A" reads as follows:

"A. Employees must not rely upon the carefulness of others, but must become familiar with the dangers surrounding their work and follow the safe method."

Safety Rule #160 reads as follows:

"Operators of power propelled equipment must look in the direction of movement and proceed at a safe speed governed by existing conditions. Loaded lift trucks must back down when descending declines."

The facts of record show that the Claimant, a Laborer, was operating a transfer table to move Amtrak Heater Car #660 to a stall track. This was his proper responsibility. In moving the car, the Claimant permitted the transfer table to go beyond the stall track. As a result, the coupler on the car damaged a brick wall.

In the move, Claimant was assisted by another employee to some degree. The Carrier found, nevertheless, that the Claimant failed to exercise the proper caution, as specified in the cited rules, and was responsible for the damage. The Board has no basis to find otherwise or to determine that the resulting penalty was improper.

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 17th day of July 1985.