

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

(Brotherhood Railway Carmen of the United States
(and Canada

Parties to Dispute: (

(The Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

1. The Baltimore and Ohio Railroad Company unjustly disciplined claimant, Walter Szymanski, (30 days overhead suspension for a six month probationary period), such discipline allegedly the result of hearing held on date of January 13, 1983, alleged charge, . . . "failing to properly inspect inbound trailers at Wicomico St. Ramp, January 4, 1983" . . . discipline assessed in violation of Claimants controlling Agreement.

2. That accordingly Carrier be ordered to withdraw such discipline as was imposed upon Claimant, that the discipline of (30) days overhead suspension for a six month probationary period be declared null and void, and that his record be cleared accordingly.

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 employed by the Carrier at its Wicomico Street Ramp in Baltimore, Maryland. Claimant's duties consisted of the inspection of inbound and outbound trailers for any physical defects for the purpose of preventing unjustified damage claims against the Carrier. He was instructed in the preparation of two forms commonly referred to as a "J-1" and a "J-2." The J-1 form identified the party responsible for the trailer defects. The Claimant testified he was required to inspect every trailer that arrived or left the gate at Wicomico. In order to properly fill out the J-1 and J-2 forms the Claimant testified it was necessary to walk around the equipment and visually inspect the trailers.

On January 4, 1983, two Assistant Car Foremen observed the Claimant issuing J-1 inspection forms to three Trailer Drivers from his office without making a visual inspection of the trailers. The Foremen testified that they spoke with the Claimant about his failure to make a physical inspection of the trailers, but within forty-five minutes of their discussion Claimant was observed issuing J-1 forms for two additional trailers without leaving his office. One of the Assistant Car Foremen testified he had instructed Claimant the evening before the alleged incident as to the importance of properly filling-out the inspection reports and performing a proper inspection of trailers passing through the gate.

Careful examination of Claimant's testimony reveals his own admission of failure to properly inspect at least one of the trailers for which he was responsible on the evening of January 4, 1983. While Claimant maintains that the driver of the trailer was in a hurry to load the trailer that night, the Board considers the proffered explanation as failing to justify Claimant's improper performance of his inspection duties.

The Board finds that the Carrier has met its burden of proof with substantial, credible evidence that Claimant failed to properly inspect trailers at the Wicomico St. Ramp on January 4, 1983. The remaining contentions by the Organization are unsubstantiated upon review of the entire record. Based upon prior warnings to Claimant, his knowledge of proper inspection procedure and the evidence of record, the Board finds the discipline assessed was neither unreasonable, capricious nor excessive.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 8th day of January 1986.