

NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 10747  
SECOND DIVISION Docket No. 10788  
2-WTC-CM-'86

The Second Division consisted of the regular members and in addition Referee Leonard K. Hall when award was rendered.

(Brotherhood Railway Carmen of the United States  
( and Canada  
Parties to Dispute: (  
(Washington Terminal Company

Dispute: Claim of Employees:

1. That the Washington Terminal Company violated Rule 29 of the controlling agreement when Deborah T. Alexander was unjustly suspended for a period of five (5) days as a result of investigation held on July 25, 1983.

2. That accordingly, the Washington Terminal Company be ordered to reinstate Deborah T. Alexander with compensation for her net wage loss due to health and welfare benefits not continued.

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.

The Claimant, employed as a Car Cleaner, was charged with failure to sweep both ends of passenger car 2990 and subsequent failure to meet her Supervisor for further assignment as instructed on June 26, 1983.

At the hearing accorded the Claimant, the Supervisor, Gang Leader Gibson, testified that he instructed the Claimant to sweep both ends of Sleeper Car 2990 and to thereafter meet him on Train No. 176 on Track No. 24 after she finished her cleaning work on car 2990.

The Claimant repeatedly testified that the Gang Leader did not give her those instructions, whereas the Gang Leader repeatedly contended that he did.

The Hearing Officer made an extended effort to clear up the conflicts in the testimony without apparent success. The net result was, however, that the car was not swept, there was no meeting with the Supervisor and the work she was performing at the time the instructions were reportedly given was completed approximately forty-five minutes prior to her 4:00 P.M. quitting time. During that time frame, the Claimant performed no work.

The credibility of the testimony is at issue. While there is sharp conflict in the testimony, it has been and continues to be uniformly held that the credibility of those testifying, their demeanor and weight given their testimony is for the determination of the Hearing Officer. This Board is not the trier of the facts.

Absent arbitrary or capricious behavior or abuse of discretion by the Hearing Officer, and there is none indicated in the transcript of the Hearing furnished the Board, we will not substitute our judgment for that of the Terminal Company.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
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Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 19th day of February 1986.