

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

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

Dispute: Claim of Employees:

1. That the Southern Railway Company violated the controlling agreement, Rule 34, but not limited thereto, when they wrongfully and unjustly suspended Machinist K. D. Bell, Chattanooga, TN, from service for (10) calendar days starting June 2, 1983 and continuing through June 11, 1983.
2. That accordingly, the Southern Railway Company be ordered to pay Machinist K. D. Bell for all lost time wages and clear his record of the charge.

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 employees involved in this dispute are respectively carrier and employees 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, K. D. Bell, a Machinist with the Carrier, and in service since February 10, 1977 was suspended for 10 days starting June 2, 1983 and ending June 11, 1983 as a result of a formal investigation held on May 20, 1983 wherein the discipline was increased from 5 to 10 calendar days. The Claimant was charged with performing faulty work, specifically, on May 8, 1983, failure to properly renew a latch assembly on Engine 3262, which resulted in an engine shutdown on May 9, 1983 when the latch assembly lodged in the adjuster head on the engine in question.

The Organization argued that the record speaks for itself. There was no proof the Claimant did not perform his job properly. There was no showing it was the Claimant's responsibility for this failure, and in any event the discipline seems to be excessive even if the Board would find that the Claimant was responsible for this activity.

The Carrier argued the Claimant was the last to work on the part which failed. It is the Claimant's responsibility. The engine shutdown, which could have resulted in more substantial damage, was clearly the responsibility of the Claimant. The discipline in question was fair under the circumstances, and the Carrier notes Rule 34 allows for an increase in discipline as a result of a formal investigation.

Upon complete review of the evidence, the Board finds that the Claimant did in fact cause the shutdown of Engine 3262 by failure to properly perform his work. However, there was no showing that this failure on the part of the Claimant was deliberate. It appeared to be an "honest mistake." With respect to the appropriateness of the penalty, the Carrier has indicated in its Submission that the Claimant is above average. The penalty does seem to be excessive and somewhat arbitrary given the work record of the Claimant. Therefore, the Board will order the penalty to be reduced to a 5 calendar day actual suspension. The Claimant is admonished to be more careful in the performance of his duty in the future.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1986.