

The Second Division consisted of the regular members and in addition Referee T. Page Sharp when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(Seaboard System Railroad

Dispute: Claim of Employees:

1. That under the current and controlling agreement, as amended, Laborer J. F. Beckham, I. D. No. 174684, was unjustly suspended from the service of the Seaboard System Railroad on March 3, 1983, thru March 14, 1983, after a formal investigation was conducted in the office of Asst. Master Mechanic F. E. Byrd on February 28, 1983.
2. That accordingly, Laborer J. F. Beckham be compensated for all lost time, vacation, health and welfare benefits, hospital, life and dental insurance premiums be paid effective March 3, 1983 thru March 14, 1983, and the payment of 10% interest rate be added thereto.

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 a laborer for the Carrier in Atlanta, Georgia. On December 16, 1982, Claimant was working the 3:00 P.M. to 11:00 P.M. shift. At about 10:30 P.M. he was driving a Carrier vehicle, a one and one-half ton stake body truck. He attempted to turn the truck around on a one lane road that ran adjacent to the tracks and, because of insufficient space, became stuck in a ditch. As a result of this incident, the truck was damaged in the approximate amount of \$454.00.

On February 7, 1982, Claimant was working as a laborer on the 11:00 P.M. to 7:00 A.M. shift. At about 2:00 A.M. he was driving the same vehicle on the same road when he drove too close to the edge of the road and got the vehicle stuck. This time the damage was about \$299.00.

The Carrier held an investigation into these accidents. Claimant was charged with:

"You are directed to report to the conference room in the office of Asst. Master Mechanic, F. E. Byrd, at 11 AM Friday, Feb. 25, 1983 for an investigation to develop the facts and place the responsibility, if any, in connection you (sic) backing vehicle 8911 into ditch on back road of Tilford yard December 16, 1982. Also of you pulling into ditch to let another vehicle pass you on the wrong side of the road, which runs along beside of main line, between Car Shop crossing and Bolton road crossing on February 7, 1983.

You are being charged with that part of Rule 1 which states the rules and regulations as well as general and special orders issued from time to time are designed to insure the proper care of the company's property and the interest of the company and its employees; To enter or remain in service is an assurance of willingness to obey the rules. And that part of rule 12 which states incompetency, willful neglect, inexcusable violation of rules resulting in endangering, damaging or destroying life or property."

The specific Rules and Regulations of the Mechanical Department concerned the care and concern of Carrier property. As a result of the evidence adduced at the Investigation, the Investigating Officer found that the charges had been sustained and suspended Claimant from the service of Carrier for a period of ten days.

About the first incident, the Claimant had not been ordered to proceed as far along the road as he traveled. He had assured his Supervisor that he had proceeded on this path before and that there was no danger. He was told that he might proceed, but warned not to get the truck stuck. He attempted to turn the truck around on a road that was about eighteen feet wide. His rebuttal to the allegation of carelessness was that he had turned the truck around on this same spot on a previous occasion. He stated that there was no backup light on the vehicle.

On the second occasion Claimant had pulled to the side of the narrow road to let a smaller vehicle pass. The weight of the large truck was such that the shoulder of the road gave away and once again the truck became stuck.

The fact that the truck had no backup light should have been cause for Claimant to exercise greater care than normal. Under the circumstances, the road proved to be too narrow to allow the necessary backing and because of darkness the Claimant should not have attempted the maneuver. The fact that he had previously been fortuitous enough to complete the maneuver does not excuse the fact that he was extremely careless to attempt it again.

When Claimant met the second vehicle head on, the decision had to be made about which vehicle would pull over and which vehicle would pass. The smaller vehicle would naturally weigh less and would be more maneuverable and would be the logical candidate to pull to the side of the road. Instead, Claimant pulled the heavy truck to the shoulder and the result of his carelessness was to cause damage to the vehicle.

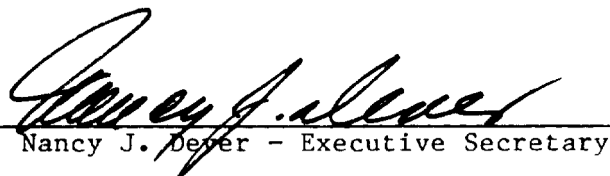
We find that the Investigating Officer was justified in finding that the charges had been proved. Claimant had received many letters of warning for past misconduct. One of these letters concerned another incident of carelessness. Apparently the letters of warning were having little effect on the conduct of Claimant. Because of the previous incidents and the seriousness of the two incidents which were the subject of the Investigation, we find that the discipline administered was warranted.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 5th day of March 1986.