

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 Company

Dispute: Claim of Employees:

1. That under the current and controlling agreement, as amended, Service Attendant J. K. Chastain, I.D. No. 467060, was unjustly suspended from service of the Seaboard System Railroad on February 18, 1983 through March 1, 1983, both dates inclusive, after a formal investigation was held on February 3, 1983.
2. That accordingly, Service Attendant J. K. Chastain be compensated for all lost time, at the pro-rata rate of pay, vacation, health and welfare benefits, hospital, life and dental premiums be paid effective February 18, 1983 through March 1, 1983, both dates inclusive, 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 employee 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.

Claimant was a Service Attendant in the service of Carrier on January 11, 1983, when her conduct on that date led to an investigation in which she was charged with:

"You are instructed to report to the Office of Departmental Foreman, 5th Street and Tenn. Ave. Etowah, Tn. at 9:00 A.M. Thursday January 20, 1983 for a formal hearing to develop the facts and place responsibility, if any, in connection with damage to company vehicle T-3605 being driven by you in the yard office parking lot, Etowah, Tn. on January 11, 1983.

You are charged with violation of Rule 36 and 57 of the Rules and Instructions governing the use and operation of Highway Motor Vehicles."

As a result of the evidence developed at the investigation, the Investigating Officer held that the charges had been proved and assessed a ten day suspension against Claimant.

Claimant was driving a 2 1/2 ton truck about the yard at 7:30 P.M. on the evening in question when she was performing her duties. She was servicing a set of light engines which were on a track on the west side of the yard and adjacent to the office parking lot. When she completed part of this assignment, she proceeded north to finish the servicing. She headed north from the east side of the lot and returned in a "U" turn to head south. During the turn she drove the truck into a power pole. The truck sustained about \$640 in damages.

The night of the accident was cold and rainy. Evidence showed that the defroster and the heater of the truck were working. Claimant stated that the side windows were continually fogging although she wiped them periodically.

The lot is divided into two sections, the east side and the west side. The east side has a traffic flow that requires one-way driving to the north. The west side has the one-way traffic flow coming south. The lot is divided into marked parking spaces on each side that face each other in the center. The pole in question is about at the center of the lot. At the time of the accident automobiles were parked near the pole, but none directly adjacent to it. The evidence showed that the pole was dimly lighted. There are yellow parking lines near the pole, lines that enclose space in which vehicles are not to enter.

There is no denying that Claimant struck the pole and that damage was done to the Carrier vehicle. The fact that the weather was inclement and that the side windows were fogging does not excuse the accident. On the contrary, these conditions indicate that Claimant should have been extra cautious on the night in question. She had been a long-time employee and there is no evidence that she was not familiar with the physical makeup of the parking lot. Claimant did not maintain the degree of vigilance necessary to safeguard the Carrier's property.

Claimant had been a long time employee and there is nothing in the record to suggest that she had been other than a satisfactory employee. Because of this lengthy past record, the Board finds that the time out of service was excessive to the goal of deterring future negligence by this Claimant. We find that five days out of service would have been satisfactory under the circumstances here. Therefore, we will assess a five day suspension and order that Claimant be made whole for the additional five days. We find no provision in the Agreement that allows us to award interest to the lost wages.

Form 1
Page 3

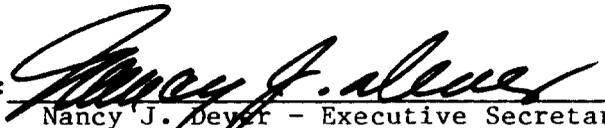
Award No. 10782
Docket No. 10474
2-FO-SSR-'86

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 12th day of March 1986.