

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

Parties to Dispute: (International Brotherhood of Electrical Workers
(National Railroad Passenger Corporation

Dispute: Claim of Employee:

1. That under the current Agreement the National Railroad Passenger Corporation has unjustly suspended Chicago Electrician Ronald Brown from service 5 days, held in abeyance, effective March 30, 1984.

2. That accordingly the carrier be ordered to restore Electrician Ronald Brown to service with seniority unimpaired and with all pay due him from the first day he was held out of service until the day he is returned to service, at the applicable Electrician's rate of pay for each day he has been improperly held from service; and with all benefits due him under the group hospital and life insurance policies for the aforementioned period; and all railroad retirement benefits due him, including unemployment and sickness benefits for the aforementioned period; and all vacation and holiday benefits due him under the current vacation and holiday agreements for the aforementioned period; and all other benefits that would normally have accrued to him had he been working in the aforementioned period in order to make him whole; and expunge his record.

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.

This dispute initially involved a suspension of five working days, the serving of which was held in abeyance. The notice of discipline addressed to the Claimant on March 30, 1984 so stated, and is recognized as such in Item 1 under the marginal caption "DISPUTE: CLAIM OF EMPLOYES."

Under Item 2 the Claim is expanded to one for restoration to service with seniority unimpaired with all pay due the Claimant from the first day held out of service until the day he is returned to service and other benefits.

The Notice of Discipline dated March 30, 1984 further stated that if no other discipline is assessed within the six month period he would not be required to serve the suspension; but that if assessed any other discipline during the six month period, the suspension would be activated as a result of the second Investigation.

There is no evidence that a second Investigation was involved in this dispute, nor is there any evidence that the Claimant was required to serve the suspension; and, moreover, there is no evidence that he was disciplined beyond the five-day deferred suspension.

The Claim as initially presented and appealed on the property was that the suspension of five days be removed from the records. The General Chairman appealed the initial declination and identified it in this manner:

"Appeal of five (5) day deferred suspension imposed upon Chicago, Illinois Electrician Ronald Brown. Claim can be identified as your file Cr-IBEW-284."

The declination of the Claim by the Carrier's Representative to the General Chairman twice identified the Claim as a five-day deferred suspension in a letter that confirmed the conference and declination of the Claim.

The General Chairman rejected the decision and stated the Claim would be progressed to a neutral.

On balance, we are required to consider the Claim as a whole, not fragments of it. The Claim as noticed to this Division of the Board is not the same as handled by the parties on the property.

While we would prefer to rule on the merits, the state of the record is such that we must reluctantly dismiss the Claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Devitt - Executive Secretary

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