

The Second Division consisted of the regular members and in addition Referee Ronald L. Miller when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada
PARTIES TO DISPUTE: (
(Burlington Northern Railway Company (formerly Western
(Fruit Express)

STATEMENT OF CLAIM:

1. That the Burlington Northern Railway Company (WFE) violated the terms of our current Agreement, particularly Rule 27, when they arbitrarily suspended WFE Carman D. M. Peters for a period of twenty (20) days.

2. That accordingly, the Burlington Northern Railway Company (WFE) be ordered to compensate D. M. Peters in the amount of eight (8) hours pay for his rate and class for each work day he was withheld from service commencing October 15, 1985 through November 11, 1985. Further, that Mr. Peters be made whole for any other benefits he would have accrued during this time period and that his personal record be cleared.

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.

On August 30, 1985, the Claimant submitted a work card showing repairs he claimed to have made to chassis BNZ 150060 on that date. Subsequently, an AAR Inspector questioned whether the repairs indicated on the work card had actually been made. The Senior General Foreman and the Claimant inspected the chassis and, at that time, could verify that only a portion of the claimed work was performed. Claimant was subsequently disciplined (twenty (20) days suspension) for his alleged falsification of repairs. The Organization contends that Claimant performed all claimed work by using new and used parts.

There is substantial evidence of record that Claimant did not perform all the claimed work. At the time of the inspection with the General Foreman, Claimant could not indicate the location of all the items repaired or replaced, nor could he explain the discrepancies between work claimed and actual work performed. Thus, there is substantial evidence that Claimant falsified a portion of the work report.

Based upon Claimant's length of service and his employment record, discipline in this matter is found to be excessive and shall be reduced to ten (10) days.

Official note is taken that the employer in this matter is Western Fruit Express, not the Burlington Northern.


Discipline in this matter is reduced from twenty (20) days to ten (10) days.

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 31st day of August 1988.