

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Firemen & Oilers
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(Chicago & Illinois Midland Railway Company

STATEMENT OF CLAIM:

1. Under the current controlling Agreement, Mr. L. Douglas, Springfield, Illinois, was unjustly dealt with when suspended for a period of twenty (20) days (May 2, 1988 through May 21, 1988), following a hearing held on April 22, 1988.

2. That accordingly, Chicago and Illinois Midland Railway Company be ordered to compensate Mr. Douglas for all time lost at the pro rata rate and the mark removed from 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.

Claimant was employed by the Carrier as a Laborer at its Car Repair Shop at Springfield, Illinois.

On April 19, 1988, the Carrier notified the Claimant to appear for a formal Investigation on the following charge:

" . . . to develop the facts and determine your responsibility, if any, in connection with the incidents that led up to and including the alleged incident on April 15, 1988, when a car was pushed from the Car Shop while men were working underneath."

The Hearing was held on April 22, 1988. On April 29, 1988, the Carrier notified the Claimant that he had been found guilty of all charges and was assessed discipline of 20 working days' suspension from service and 12 months' probation effective May 2, 1988. On May 5, 1988, the Claimant filed a Claim, with the assistance of the Organization, challenging his suspension. On May 13, 1988, the Carrier offered to adjust the Claimant's discipline, which the Claimant rejected.

This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of negligence on April 15, 1988, when he pushed a car under which men were working. The Claimant has admitted his wrongdoing.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

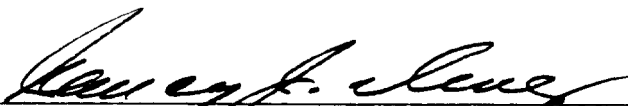
In the case at hand, the Claimant was found responsible for a very serious incident. He was assessed a 20 working days' suspension and 12 months' probation. Given the facts of this case this Board cannot find that the action taken by the Carrier was unreasonable. Therefore, the Claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 16th day of January 1991.