

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12564
Docket No. 11984
93-2-90-2-88

The Second Division consisted of the regular members and in addition Referee Robert O. Harris when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists and
(Aerospace Workers
(
(Illinois Central Railroad

STATEMENT OF CLAIM:

"That the Illinois Central Railroad violated the current and controlling Agreement between the International Association of Machinists and the Illinois Central Railroad dated April 1, 1935, as subsequently revised and amended, when it harshly and unjustly disciplined (suspended from service on October 31, 1989, through November 20, 1989 - 15 working days) Machinist Warren Winker because he allegedly 'failed to improperly lubricate #3 traction motor gear case on locomotive 9617 on September 4, 1989.'

That the Illinois Central Railroad make Machinist Winker whole for any and all losses incurred as result of the investigation conducted on April 14, 1989, and his suspension from service, and clear his service record of all reference to the incident."

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 employe 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 is employed as a Machinist at the Woodcrest Shop in Chicago, Illinois. He was charged with improperly lubricating the gear case on a traction motor and following a Hearing was suspended for 15 working days.

Evidence adduced at the Hearing indicated that Claimant had the responsibility of adding grease, in two pound bags, to gear cases as was needed. He indicated that he had added grease to the gear case in question. Subsequent to his working on the locomotive, it was moved a short distance to another track for additional repairs. At this point another Machinist noticed that there was damage to the gear case and when he inspected it, noticed that the top of the gears were dry. He reported this to his supervisor and a repair was ordered. This was undertaken subsequently by still other Machinists who indicated that while the top of the gears were dry, the bottom of the gears still had some grease on them and that there were the remains of a plastic bag in the case. As a result of this Hearing the Carrier concluded that Claimant had not properly added grease to the traction motor.

The basic contention of the Organization is that there is a conflict in evidence as to whether there was grease in the gear case of the traction motor. However, every witness indicated that there was not sufficient grease. The duty of Claimant was to add grease as needed. He may or may not have put a single bag of grease in the case, but he did not look to see if more was needed. The Carrier's determination that he failed to perform the duties assigned him is supported by the evidence.

The Organization contends that certain information was not supplied to it in advance of the Hearing and that this is a violation of the Agreement. The information in question was the service record of Claimant, which was supplied to him. The failure to supply in advance might be cause to set aside a decision; however, in this case the Organization was given the opportunity to request a postponement of the Hearing because of the failure and it declined to make the request. Accordingly, it waived the failure to supply the information to it in advance of the hearing.

Based upon the evidence in this case, including a review of the entire Hearing record, it is our conclusion that Claimant was guilty of the charge and that the discipline assessed was warranted. The discipline was not unjust and the actions of the Carrier were not arbitrary.

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A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: *Catherine Loughrin*
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 8th day of September 1993.