

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12628
Docket No. 12565
93-2-92-2-88

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

(International Brotherhood of Electrical
Workers)
PARTIES TO DISPUTE: (
(Norfolk Southern Railway Company (formerly
(Southern Railway Company)

STATEMENT OF CLAIM:

- "1. That the Norfolk Southern Railway Company (former Southern Railway Company) violated the controlling agreement when on December 6, 1990 they unjustly assessed Electrician G. C. Brazelton with a letter of reprimand to be recorded upon his Career Service Record, at their Chattanooga Diesel Shop in Chattanooga, Tennessee.
2. That accordingly, the Norfolk Southern Railway Company (former Southern Railway Company), be ordered to remove the aforesaid letter of reprimand from Electrician G. C. Brazelton's Career Service Record, account of Carrier's unjust action in violation of the Agreement."

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 employee 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 November 27, 1990, the Claimant attended a formal investigation on charges that he had violated the Carrier's Safety and General Conduct GF-6 and engaged in conduct unbecoming an employee. Specifically, the Carrier's alleged that the Claimant was observed rubbing the leg of a Student Electrician ("Electrician") and

engaging in remarks that had sexual overtones while on duty and under pay.

The Carrier, when reaching its determination that the Claimant was guilty of the charges, mainly relied upon the testimony of a Student Machinist and a Service Attendant who basically testified that they saw the Electrician put her leg across the Claimant's thigh. They also testified that they saw the Claimant rub the Electrician's thigh and heard portions of the conversation between the Electrician and the Claimant.

For its part, the Organization mainly contends that the Electrician had leg cramps, was in severe pain and needed immediate first aid.

The Board, after careful review of the transcript of the hearing and the other evidence of record find substantively credible evidence in the record that the Claimant was guilty as charged by the Carrier.

The testimony of the two individuals, mainly relied upon by the Carrier, was not successfully rebutted at the hearing. Moreover, the Claimant himself did not deny that he rubbed the Electrician's thigh. His contention that he was administering first aid, given the context of the events, is not credible. The Claimant's behavior clearly is unacceptable in the industrial workplace. We find the Carrier's actions neither arbitrary or capricious.

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 1st day of December 1993.