

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12791
Docket No. 12580
94-2-92-2-132

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists
(and Aerospace Workers
(
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

"That the Missouri Pacific-Union Pacific Railroad violated Rule 32 of the Current Controlling Agreement between the International Association of Machinists and Aerospace Workers and the Missouri Pacific-Union Pacific Railroad Company dated June 1, 1960, when it harshly and unjustly placed a letter of discipline dated November 7, 1991, on the personal record of Machinist D.P. Stewart.

That the Missouri Pacific-Union Pacific Railroad Company remove from the personal record of Machinist D.P. Stewart the November 7, 1991, letter of discipline and clear his service record of all references 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 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.

Claimant is employed by Carrier at its North Little Rock Jenks Facility in North Little Rock, Arkansas. On November 6, 1991, Claimant and his Manager met to discuss Claimant's safety record and to engage in training concerning working safely. As a result of the November 6, 1991 session, the Manager issued a letter to the Claimant recording what took place at the session. Copies of the letter were placed in Claimant's personal file, as well as distributed to the Local Chairman and appropriate Management personnel. The letter reads as follows:

"NOVEMBER 7, 1991

MR. D.P. STEWART
3-A PRESLEY DR.
CONWAY, AR 72032

DEAR MR. D. P. STEWART,

ON NOVEMBER 6, 1991, YOU ATTENDED A PERSONAL SAFETY CONFERENCE AT JENKS SHOP.

AS YOU WILL RECALL, WE DISCUSSED YOUR PERSONAL INJURY RECORD. THE PURPOSE OF THE CONFERENCE WAS TO MAKE YOU AWARE OF YOUR PERSONAL INJURY EXPERIENCE AND HOW SAFETY EFFECTS YOU, YOUR FAMILY, AND ALL RAILROAD EMPLOYEES. WE APPRECIATE YOUR COOPERATION DURING THE MEETING AND YOUR COMMITMENT TO FOLLOW SAFE WORK PROCEDURES. WE ALSO WILL GIVE YOU FEEDBACK ON THE ITEMS THAT YOU BROUGHT UP DURING THE MEETING.

WE SINCERELY HOPE THIS MEETING WAS BENEFICIAL TO YOU AND WILL ASSIST YOU IN YOUR EFFORT TO BE A SAFE, PRODUCTIVE, AND EFFICIENT EMPLOYEE.

IF DESIRED, ADDITIONAL SAFETY TRAINING COVERING ANY FACET OF YOUR DUTIES WILL BE AFFORDED YOU UPON REQUEST.

S. J. SLATTERY

CC: H. SYERS--MANAGER OF SAFETY SERVICES
D. HALL--LOCAL CHAIRMAN
S. MCKINNEY"

As a result of this letter being placed in Claimant's file, a claim was filed alleging that the letter constituted discipline. As such, it was a violation of Rule 32 of the current controlling Agreement. Rule 32 states that an employe who is disciplined must first be afforded a fair and impartial hearing. The Organization reasons that since the letter constitutes discipline and no hearing was held, Carrier violated the Agreement. The letter and any reference to it in Carrier's file should be expunged.

Carrier takes the position that neither the safety conference on November 6, 1991, nor the letter in Claimant's file recording the conference constitutes any form of discipline.

This Board has reviewed the identical case in our Second Division Award 12790. Our review was in somewhat more detail in that Award than is required in this one. Our reasoning in that case applies equally as well here. The letter placed in Claimant's file does not constitute discipline and Claimant cannot be regarded as a first offender in any matter relating to or discussed in the safety conference.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 9th day of December 1994.