

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 13046
Docket No. 12833
96-2-93-2-231

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists
(& Aerospace Workers, AFL-CIO
(Missouri Pacific Railroad Company

STATEMENT OF CLAIM:

"That the Missouri Pacific Railroad Company (hereinafter referred to as Carrier) violated Rule 32 of the Current Controlling Agreement between the International Association of Machinists and the Missouri Pacific Railroad Company dated June 1, 1960, as subsequently revised and amended when it harshly and unjustly placed a letter of discipline dated April 30, 1993, on the personal record of Machinist D. A. Tackett (hereinafter referred to as Claimant) account his alleged failure to check all fluid levels before starting an engine, without first holding a formal investigation to determine the facts.

Relief requested: That the Missouri Pacific Railroad Company remove from Machinist D. A. Tackett's personal record file the April 30, 1993 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 were given due notice of hearing thereon.

Except as to the identification of the Claimant, this dispute is identical to that reviewed in Second Division Award 13045, and the Board has no basis to reach a different conclusion.

It is worth noting, however, that the two Claims involve two employees in the same craft and classification; the two discussions with the Manager occurred simultaneously with each other; and the subject matter was identical. Surely, this lends support to the view that the meeting was intended to provide guidance in job performance and probably improvement therein, as opposed to the theory that the written record of such discussion is necessarily disciplinary in nature.

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 25th day of September 1996.