

Award No. 163

Docket No. 168

2-IGN-CM-'37

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 14, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

**INTERNATIONAL-GREAT NORTHERN RAILROAD
COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: That J. H. Weis, car inspector helper at Houston, Texas, be compensated for all time lost account of being removed from service of the International-Great Northern Railroad Company for alleged insubordination.

JOINT STATEMENT OF FACTS: J. H. Weis was removed from service on May 1, 1935, for his failure to come to office when requested or to make reply to letters from Car Foreman Melear, dated April 23, 27 and 30, 1935, pertaining to alleged indebtedness. He was reinstated on May 14, 1935.

POSITION OF EMPLOYEES: The investigation which was given Mr. J. H. Weis in the office of car foreman, Mr. M. G. Melear, and presided over by him, developed no evidence of any act of insubordination being committed by Mr. Weis. Neither was there any attempt made to show that he had violated any rules of the company. Copy of the proceedings of the investigation is presented as Exhibit A.

The fact, however, was fully developed that the only question involved was relative to a bill owed by Mr. Weis to one Dr. Greer, the amount of which was in dispute. That the letter of April 30, 1935, pertained to the same thing as previous letters mentioned in the investigation, is borne out by statement presented as Exhibit B.

Further, the position of the local management was one of showing an inclination and desire to delve into and to attempt to handle and supervise the personal affairs of the employes. Exhibit C is a letter received by Mr. Weis prior to the investigation and referred to in the investigation.

We therefore contend that Mr. J. H. Weis should be compensated for all time lost amounting to one hundred and four (104) hours at his hourly rate of fifty-two (52) cents per hour; that all reference to this case be stricken from his personal record, and that no consideration be taken of the release which he signed prior to his returning to work, same being signed under duress and fear of not being reinstated.

POSITION OF CARRIER: On April 23 Foreman Melear wrote Car Inspector Helper J. H. Weis as follows:

"We have letter from Mr. Stark, Master Mechanic, reference to a letter from the Physicians Credit Exchange addressed to Mr. W. G. Choate, General Manager, regarding your indebtedness to Dr. David Greer in the amount of \$20.00.

the regularly constituted committee and Mr. Weis, until Sept. 26, 1935, at which time general chairman of the B. R. C. A. revived the file and requested pay for the time Mr. Weis lost.

Additional papers are as follows:

Exhibit C—Copy of interrogation of G. R. Kirsch, who was local chairman on May 2, 1935, when investigation of J. H. Weis was held by General Manager W. G. Choate, with reference to the investigation conducted.

It is the claim of the management that J. H. Weis was insubordinate in his failure to answer letters sent him by his superior officer and his failure to report to his superior's office when instructed to do so, that he was properly disciplined which Weis admitted in his letter of May 14, 1935, and that he is not entitled to pay for the time he was out of service, and which he personally waived any claims to in his letter of May 14, 1935.

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.

The parties to said dispute waived right of appearance at hearing thereon.

The employes' position does not support the claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 11th day of June, 1937.