

Award No. 345

Docket No. 363

2-IC-FO-'39

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 99, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (FIREMEN AND OILERS)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Mr. T. C. Parker, crane truck operator, at Paducah shops, Paducah, Kentucky, was unjustly disciplined and shall be compensated for wage losses incurred for a period of ten (10) days, beginning June 8, 1938, under the provisions of Rule 15, reading:

"Rule 15. If it has been found that an employe has been unjustly discharged or held out of service pending an investigation, such employe shall be reinstated with full pay for all time lost."

JOINT STATEMENT OF FACTS: T. C. Parker was penalized by a suspension from service for ten (10) days, beginning June 8, 1938, account of alleged responsibility of injury to Machinist J. S. Davis on date of May 20, 1938, at which time the truck that T. C. Parker was operating caused a screen to fall over and hit Machinist Davis.

Investigation covering injury sustained by Machinist J. S. Davis on date of May 20, 1938, was conducted on date of May 23, 1938. Mr. Parker was not held out of service pending investigation, but was removed from service beginning June 8, 1938, for a period of ten working days.

POSITION OF EMPLOYEES: As stated in Rule 11 of the current agreement, it is the position of the employes that Mr. T. C. Parker was unjustly dealt with when he was disciplined by ten (10) day suspension from service beginning June 8, 1938, as shown in the agreed to Statement of Facts.

Discipline outlined above was predicated upon a decision of the employing officer, subsequent to an investigation made in the manner of securing statements from the witnesses who saw Machinist J. S. Davis receive an injury on date of May 20, 1938, whereby the employing officer alleged that Mr. Parker was responsible and did assess the discipline.

On page 3 of the carriers Exhibit B, the speed of the truck, which was operated by Mr. Parker is shown as being approximately one mile per hour. Truck operation at one mile per hour is a definite indication that care and caution was being exercised in the interest of safety and a maximum of efficiency. On page 5 of the carriers Exhibit B, Machinist Floyd Moore substantiates the fact that Mr. Parker was effecting a discharge of duty in a manner that was an established practice indulged in for approximately three years.

4. That disciplinary action is contemplated by the rules of the agreement.
5. That actual suspension applied as disciplinary action is not prohibited by the rules of the agreement.
6. The intent of the rules of the agreement and the prescribed operating safety rules have been applied in good faith and without prejudice.

The carrier, therefore, requests that the claim be denied.

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 were given due notice of hearing thereon.

The carrier's Exhibit A, safety committee's report, shows the committee was unanimous in placing responsibility for the accident on Parker. This report and other evidence of record indicates Parker failed to use sufficient caution.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 12th day of June, 1939.