

Award No. 571

Docket No. 525

2-ACL-BM-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Henry King, boilermaker helper, Waycross, Georgia, be compensated for time lost due to improper suspension of five (5) days.

EMPLOYEES' STATEMENT OF FACTS: Henry King, colored boilermaker helper, was given an investigation on October 28, 1939, on charges of not completing duty in cleaning out tank of engine 1611, which was dated out of the shop on October 14, 1939. It was charged that this caused a delay to train 212, pulled by engine 1611.

Henry King was given five (5) days actual suspension in this case.

Henry King was improperly suspended as the responsibility of the condition of the tanks when entering service should not be charged to a helper but to either the lead mechanic in the tank shop of the boiler inspector.

The case has been handled with the carrier in accordance with the rules of the agreement, and in denying adjustment the carrier has also declined to join us in submission to the Second Division, National Railroad Adjustment Board.

POSITION OF EMPLOYEES: Henry King's duties as boilermaker helper in the tank shop, Waycross, are to assist Boilermaker F. S. Hutchinson, who is boilermaker lead mechanic in the tank shop. Mr. Hutchinson directs the work in the tank shop and is charged with the responsibility of the proper repairing of tanks of locomotives in the back shop for classified repairs. King is assigned to help Mr. Hutchinson and is under the jurisdiction of Mr. Hutchinson, performing regular boilermaker helper's duties.

When engine No. 1611 was in the back shop for classified repairs in October, 1939, the tank was placed in the tank shop for repairs. After the boilermaker's work was completed, King was told by Mr. Hutchinson to clean out the tank, which he did according to instructions of Mr. Hutchinson. In the investigation, Exhibit I, King stated that Mr. Hutchinson was with him when he started and when he finished the job of cleaning tank, and that Mr. Hutchinson instructed him to clean loose scale on bottom of tank, which he did, and did not instruct him to knock scale off the sides and cross braces. King did all of the work he was instructed to do by his supervisor. If the scale should have been knocked from the sides and cross braces, Mr. Hutchinson should have had King to do so.

Henry King was given an investigation, and after due consideration due to his period of service, was disciplined. However, only light discipline was administered of five (5) days' actual suspension.

Carrier is supported by affidavit from Lead Boilermaker F. G. Hutchinson as Exhibit A, as he gave instructions to Henry King, boilermaker helper, to thoroughly clean out the tank of engine 1611.

Henry King admits in the investigation given him by Boiler Foreman L. M. Stewart it was his duty to clean out tanks, also he recalls cleaning out this tank which was turned out on October 14, also admits going to the roundhouse and was shown three (3) buckets of scale removed from the tank.

Carrier is supported by Exhibit B—affidavit from Boiler Inspector J. A. Morton, that there was approximately a wheelbarrow load of scale and rust removed from the tank.

Engine 1611 had only made one trip to Jacksonville, Fla. and returned to Waycross, Ga., which is a total of 150 miles.

Carrier is supported by Exhibit C—affidavit from Mr. M. E. Long, that nothing was left around the tank valves that would interfere with its operation after repairing the valves.

Carrier is supported by Exhibit D—affidavit from Machinist Apprentice E. L. Watkins, Jr., who was working with Machinist M. E. Long in repairing valves, that they were very careful not to leave anything in the tank that would disturb the flow of water. To be doubly sure that they had left nothing inside the tank, they went back inside the tank again the first thing the next morning after repairing the tank valves.

This case boils down to an employe instructed to thoroughly clean out a tank and he failed to properly do the work, and his negligence caused considerable trouble and delay to an important train, and the employe did not realize the importance of the duty he was performing. Therefore, light discipline was administered to prevent a repetition, because, as well as the negligence on the part of the employe causing a bad delay to an important train, a very serious accident could have happened by this negligence.

Therefore, carrier respectfully requests the National Railroad Adjustment Board to deny this claim.

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.

Responsibility for proper performance of work usually rests with the mechanic and not the helper when working under mechanic's direction. In the instant case, the evidence of record is such the Division does not find sufficient cause to vacate the discipline.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 18th day of February, 1941.