

Award No. 1178

Docket No. 1102

2-ACL-CM-'47

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George A. Cook when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—CARMEN

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That Car Inspector B. C. Farris was unjustly deprived of his service rights during the period of March 1 to 15, 1945, inclusive, and that accordingly the carrier be ordered to reimburse him for all time lost in the amount of \$126.72.

EMPLOYES' STATEMENT OF FACTS: The carrier and the Seaboard Air Line Railway both maintain 24-hour inspection service at Tampa, Florida, in the Uceta Yards, whereat Car Inspector Farris was regularly employed.

AT&SF Car 149595 arrived at Uceta Yards in ACL Train No. 213 on December 3, 1944, at 11:50 A. M., and was inspected by the Atlantic Coast Line first shift inspectors. This car was delivered to the Seaboard Air Line Railway through the Uceta Interchange at 11:30 A. M. on December 4, and said car was inspected by the Seaboard Air Line first shift interchange inspectors. The Seaboard Air Line returned this car under load to the Atlantic Coast Line at 9:15 P. M. on December 6, and said car was inspected by the Atlantic Coast Line second shift interchange inspectors. On the morning of December 7, this car was inspected by Inspectors Farris and Barnes before it departed in ACL Extra 835 at 6:30 A. M., destination Dade City.

While in Dade City, this car was unloaded, reloaded and later dispatched on December 12 in Train No. 570, engine No. 1622, operating out of Lakeland, Florida. It derailed on the same date between Gibara and Dunnellon, Florida. Car was rerailed and moved to Dunnellon where Inspector Koonce of that point, with assistance from High Springs, made emergency repairs by substituting a wrecker truck under A end of car, after which the car was moved at High Springs, Florida, in Local No. 570, arriving December 14, 1944, received necessary repairs and was dispatched in Local Train No. 508 on December 16, 1944.

A check of the duplicate billing repair card discloses the following repairs were made:

Location	Material	Why Made
R & L 4	1 Pr. SH 33" Wheels	Out of Gage
R & L 3	1 Pr. SH 33" Wheels	Bent Axle
R & L 3&4	4 New 9" Brass	Worn Out
R 2	1 New 9" Dust Guard
L 3&4 R 4	3 SH 9" Journal Boxes	Broken

Under date of January 23, 1945, Inspector Farris was cited for an investigation, charged with violation of Rule 32, paragraph (b) of the agreement. Investigation was conducted on January 24 and fifteen (15) days actual suspension was assessed under date of February 20, 1945. See Exhibits A, B and C, respectively.

The discipline was promptly protested and the resultant claim progressed in accordance with the provisions of the agreement.

POSITION OF THE EMPLOYEES: In outlining our position, the employees first desire to make reference to the fact that the car in question, between 11:50 A.M. December 3, and 6:30 A.M. December 7, received a total of four (4) inspections at Tampa; one receiving inspection, two interchange inspections and one forwarding inspection, the last of which was made by Inspectors Farris and Barnes when forwarding the car in Extra 835 on the morning of December 7. The four (4) inspections given this car at Tampa (Uceta Yards) revealed no exceptions or defects whatsoever. It is a further fact, and the record so discloses, that after this car was inspected by Car Inspectors Farris and Barnes it continued in service from 6:30 A.M. December 7 until the time of the accident on December 12, for which Inspector Farris was wrongfully and without any justifiable reason held responsible.

Other pertinent information in support of the employees' position is outlined in our letter of May 3, 1945, to the superintendent motive power, Mr. James Grant, in the course of our handling of this claim. With the exception of a slight change in the first sentence of paragraphs 2 and 3, the letter in question is here quoted in its entirety as still representing the employees' position:

Florence, S. C., May 3, 1945

Subject: Discipline of B. C. Farris, Car Inspector, Tampa, Fla.
Mr. James Grant
Supt. Motive Power
Waycross, Georgia

Dear Sir:

This letter is to protest the 15 day actual suspension administered Car Inspector B. C. Farris, account of his connection with the inspection of AT&SF 149595, December 7, 1944 and subsequent accident in which this car was involved December 12, 1944 near Dunnellon, Florida.

The record discloses that this car first arrived in Uceta Yards in Train No. 213 at 11:50 A.M. December 3, 1944; it was delivered to the Seaboard Railroad at 11:30 December 4th and was received from the Seaboard Railroad in Tampa, Florida, December 6, 1944 at 9:15 P.M., was forwarded in Extra No. 836 at 6:30 A.M. December 7, 1944. Six days later this car was in accident at Dunnellon, Florida. In the meantime, it had been handled into Dade City, Florida, where it had been unloaded, re-loaded, and re-assigned and derailed in Extra No. 1622 north on December 12, 1944 allegedly account of excessive side bearing clearance:

The inspection record of the Seaboard Railroad Inspector shows no exception taken to this car when received from the A. C. L. Railroad at Tampa, Florida on December 4th. We have at Tampa on the second shift, an Inspector who regularly inspects all interchange deliveries from the Seaboard Railroad before they are accepted. So far as I know, no exception was taken to side bearing clearance when this car was received from Seaboard Railroad by our Inspector.

When this car derailed, it traveled a distance of almost two miles, damaging that much track. One of the side bearing rollers was missing, three journal boxes were broken, one axle was bent and one wheel loose on axle. The car was moved from Dunnellon to High Springs with the aid of wrecking service truck which was applied by Car Inspector Koonce with the assistance of a helper along with the tool car.

Ten days following the accident an investigation is made and the accident is attributed to alleged excessive side bearing clearance. It must be remembered that this side bearing clearance is determined not before the accident but after the accident.

Certainly an accident which, according to the investigating officer's report, is serious enough to bend an axle, knock a wheel loose, break three journal boxes, and loose a side bearing roller, would be quite sufficient to cause the loss of any loose shims or liners which might have been previously used to adjust the side bearing clearance to normal requirements.

Here we have three inspection records just prior to the accident wherein no exception is taken to side bearing clearance, but ten days after the accident it is determined that the excessive side bearing clearance is cause of the derailment.

railment of this car between Gibara and Dunnellon, Florida, December 12, 1944. Sworn copy of investigation given Car Inspector B. C. Farris submitted and marked carrier's Exhibit E. Mr. Farris admits that he inspected the car before leaving Uceta yards. Sworn copy of investigation given Car Inspector W. H. Barnes submitted and marked carrier's Exhibit E. Mr. Barnes states he inspected AT&SF Car 149595 on December 7, 1944.

Mr. Barnes left the service of the carrier on February 1, 1945, therefore, was not disciplined. The discipline administered to Mr. Farris of fifteen (15) days' suspension, was made effective March 1, 1945. Sworn copy of transcript of Mr. Farris' service record submitted and marked carrier's Exhibit D.

The carrier contends that Inspector B. C. Farris did not make a close inspection of the Santa Fe car when he inspected the train at Uceta yards on December 7, 1944. If proper inspection had been made he would have discovered the excessive side bearing clearance on the car. There is no way that shims could have gotten out from under these side bearings from the time the car left the Yards on December 7, first going to Dade City, a distance of thirty-seven miles, where the car was set off for unloading, then reloaded and picked up and moved from Dade City to Gibara, a further distance of forty-nine and a half miles, where the front trucks of the car derailed. The body of the car never did leave the rear trucks, and there was no possible chance of any shims or liners coming out from under the side bearings on that truck inasmuch as the side bearing bodies were firmly bolted to the truck.

The investigating committee who made the report on the derailment consisted of the general foreman at High Springs, the trainmaster on the district, and the roadmaster on the district. These committees are absolutely unbiased and make their reports after close investigation with the engine crews, train crews, and inspection of the track and equipment at the scene of the derailment. The committee made the unanimous report that the derailment was caused by the excessive side bearing clearance on this AT&SF car, causing it to rock off the track. Car Inspectors Fort and Beckwith, who made repairs to the car at High Springs, bring out the fact that they had to apply $\frac{3}{8}$ " liners under all side bearings on the car, showing that the clearance was altogether excessive.

It is a dangerous experiment to run a box car with as much as $\frac{3}{8}$ " clearance on all side bearings. The car might react all right on a straight even track when loaded with a low load and a low center of gravity, but if run at any speed with a high load and a high center of gravity on a track with some possible low places, or curves, an undulating or swaying motion would start at the top of the car which would continue to get worse as the speed increased, and would eventually cause the wheels to pick up and the car to rock off the track. The carrier believes this is what happened at Gibara due to the excessive side bearing clearance.

The carrier contends that Inspectors Farris and Barnes were negligent in their duties in not discovering the condition of the side bearings on the Santa Fe car when they made outgoing inspection December 7, 1944, in Uceta yards, Tampa, Florida, and that these inspectors were responsible for the accident.

The damage to track and equipment account of the derailment was heavy, approximately \$15,650., and surely when employees through their negligence cause a carrier to incur such unnecessary expense, discipline must be meted out.

The carrier contends the discipline administered in this case is not unreasonable or unjust, but lenient, and applied in the interest of the service, and respectfully requests the National Railroad Adjustment Board to decline the request of the employee.

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 charge of neglect of duty in performing proper inspection of the car in question in this case has been carefully considered, together with the reports of investigations, and it does not appear that from all the evidence produced, both orally and in writing, that it was reasonable discipline to suspend this employe from the service without pay for the time in question.

This Board has therefore stated that it hesitates to interfere in cases of discipline; however, we do not find, considering all the facts and circumstances in connection with this case, that the discipline was just and reasonable—there are too many elements of assumption and doubt, and without any direct evidence of guilt the Board finds that the discipline in this case was too severe.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 13th day of May, 1947.