

Award No. 1916
Docket No. 1805-I
2-CMStP&P-I-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

LEO N. AUBRY, (Electrical Worker)

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEE: The grievance and dispute is "Dismissal due to insubordination" from the Chicago, Milwaukee, St. Paul and Pacific Railroad Company. I was dismissed from employment in the Tacoma, Washington Coach Yard, April 14, 1953.

EMPLOYEE'S STATEMENT OF FACTS: September 1950, I was hired by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company in Tacoma, Washington as an electrician. I worked in the coach yard, motor repair shop and round house until April 14, 1953, when I was dismissed by the coach yard foreman due to insubordination. My immediate supervisor at the time of dismissal was the electrician foreman in the coach yard.

April 14, 1953, while doing the work assigned to me by the electrician foreman; replacing electrical train supplies and testing lights, switches, etc., in the train cars being made ready for the next passenger train leaving, I was told by the coach yard foreman to drop the work I was doing and do some work in the machine shop. I asked him to first notify the electrician foreman so he would know that I was being sent out of the coach yard and so I would not be accused of neglecting the work assigned. He insisted that I do as he said at once and left. A few minutes later he returned and again insisted that I do as he said. I asked him if he had notified my foreman, which he had not done. Angry words were exchanged until he told me that I was dismissed from the service with the railroad and to leave the yard at once. I asked that he give me my dismissal in writing which he wrote out immediately. While I was in the shop gathering my belongings together I was notified by the electrician foreman that the coach yard foreman had notified him to dismiss me from employment at once.

The coach yard foreman, knowing I was a member of the electrical workers union, called a meeting of the grievance committee, the general car foreman and myself and had them agree to his method of dismissing me. One member of the committee, although on the premises, was unable to attend. He was employed in the power house and because no relief was arranged, it was impossible for him to leave the power house at the time of the meeting. No one present kept a written record of the proceedings of the meeting. Later I wrote a letter to the coach yard foreman mentioning my regret for our hasty words and asked that he assist me in being re-employed in any capacity with the railroad company. I received no answer.

3. He was promptly and properly notified as to the discipline rendered following investigation which is evidenced by letter written by Mr. O'Neill to Mr. Aubry on April 15, 1953.
4. The decision rendered was based upon the responsibility of Mr. Aubry in connection with his act of insubordination and abusive and disrespectful treatment on April 14, 1953 together with his past record which discloses the fact that on one previous occasion it had been necessary to call Mr. Aubry into the office for another show of insubordination at which time Mr. O'Neill let him off with a reprimand as Mr. Aubry promised it would not happen again.
5. The schedule rules were complied with and there is no allegation to the contrary.

We also direct attention to the fact that this claim has not been handled on the property in accordance with the Railway Labor Act as amended, Section 3(i), inasmuch as it was not handled with Mr. C. P. Downing, assistant to vice president who is the highest operating officer designated to handle such matters.

Having determined beyond any question of doubt that Mr. Aubry was responsible for acts of insubordination, abusive and disrespectful treatment toward Coach Yard Foreman O'Neill and that all handling in connection therewith has been in full compliance with the schedule rules, it is clear that there has been no arbitrary, unjust or unreasonable action on the part of the carrier and in view thereof, as so many awards have held, the carrier's action should not be disturbed and we therefore respectfully request 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 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.

The parties to said dispute were given due notice of hearing thereon.

The record discloses that this dispute was not handled on the property in accordance with the grievance procedures outlined in Rule 34 of the controlling agreement and Section 3, First (i), of the Railway Labor Act. Therefore, this Division is without jurisdiction. (See Second Division Awards 1852 and 1902 and others cited therein.)

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 14th day of April, 1955.