

Award No. 3640

Docket No. 3387

2-I&N-CM-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard Johnson when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 91, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)**

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current agreement, Carman Frank Griffin, was unjustly dismissed from service June 9, 1958, and
2. That accordingly the Carrier be ordered to restore the afore-named carman to service with all seniority rights unimpaired and compensated for all time lost subsequent to June 9, 1958.

EMPLOYES STATEMENT OF FACTS: Carman Frank Griffin, herein-after referred to as the claimant, was employed as such at the carrier's Nashville, Tennessee facilities on September 10, 1942 after working 2 years as a laborer and serving a four year apprenticeship, or a total of 22 years continuous service.

On May 15, 1958 the carrier's master mechanic wrote the claimant to the effect that he was being charged with leaving his assignment at or about 9 A. M. May 15, 1958.

As advised in the letter of May 15, an investigation was conducted in the office of the master mechanic on May 20 and a copy of the transcript is submitted herewith identified as Exhibit B.

Under date of June 9, 1958 the carrier's superintendent posted Bulletin No. 25 on bulletin boards at Nashville, Tennessee and wrote the claimant that the bulletin applied to him.

The case regarding this claimant's dismissal has been handled repeatedly with the proper officers of the carrier by both correspondence and conferences, without a satisfactory conclusion.

The agreement of September 1, 1943, as amended, is controlling.

POSITION OF EMPLOYES: It is submitted that there is nothing whatsoever in the transcript of investigation, or any other evidence, which would justify the dismissal of the claimant and destroy 22 years of satisfactory

FINDINGS: The Second Division of the Adjustment Board, based 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.

Parties to said dispute were given due notice of hearing thereon.

The claim is that claimant was unjustly dismissed from service, after a hearing in which he was found guilty of leaving his job assignment. His regular assignment was the operation of a lift truck. On the day in question he had been given a special assignment as temporary operator of a locomotive crane, following which he returned to his regular location. While waiting for his lift truck, which was being operated by another employe, he left his place of assignment without communication with or request to his immediate supervisor, who was nearby, and went by car to a lunch room six hundred feet away which was not operated by the carrier although situated on ground apparently leased from it. He thereby violated a bulletin instructing employes not to leave "the company premises or their places of assignment except on company business".

He was absent for about twenty minutes, according to the weight of the evidence, either to have coffee or to obtain a headache remedy although some such remedy was immediately available at a first aid station maintained by carrier near his place of assignment.

It is our conclusion that the carrier properly found claimant guilty of the offense charged, but that the penalty is out of all proportion to the nature of the offense. This is especially true in view of claimant's twenty-two years service with a clear record. We believe that carrier should now restore him to service with seniority rights unimpaired, but without compensation for time lost.

AWARD

That claimant be restored to service with seniority unimpaired, but without compensation for time lost.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 18th day of January 1961.