

Award No. 3668

Docket No. 3554

2-GN-EW-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYEES' DEPARTMENT, A. F. OF L. — C. I. O. (Electrical Workers)

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement Electrician Donald Ball was unjustly discharged from service, effective March 6, 1959.
2. That accordingly the Great Northern Railway Company be ordered to reinstate Electrician Donald Ball with all seniority rights and all other rights unimpaired, and compensate Donald Ball for all time lost since March 6, 1959.

EMPLOYEES' STATEMENT OF FACTS: Electrician Donald Ball, hereinafter referred to as the claimant, has been employed by the Great Northern Railway Company, hereinafter referred to as the carrier, since 1950, and has worked as a district lineman since 1956.

On February 13, 1959, a company communication truck operated by the claimant was involved in an accident on Main Street at Stanley, North Dakota. Under date of February 16, 1959, the claimant was notified to appear at the Trainmaster's Office on Thursday, February 19, at 2:00 P. M., for formal investigation.

Under date of March 5, 1959, Trainmaster R. E. Storm notified the claimant that he was being discharged from service effective March 6, 1959.

Under date of March 16, 1959, this case was appealed to Supervisor Communications G. K. Grant, who denied our appeal.

Under date of April 10, 1959, we appealed the decision to Superintendent R. H. Hennesch, who denied our appeal.

Under date of April 22, 1959, we appealed the decision to General Manager R. N. Whitman, who denied our appeal.

for reinstatement would constitute an unwarranted encroachment on the power to discipline or dismiss lodged in the carrier by the agreement.”

Thus, the disciplinary rights of management are founded on its duties and responsibilities. Interference with these rights is interference with the fulfillment of these duties and responsibilities.

CONCLUSION

Carrier submits that since the record in this case clearly indicates that claimant was in violation of carrier's rules and instruction; that claimant was fully responsible for the traffic accident on February 13; that claimant actually, through his own irresponsible, negative behavior and utter disregard for carrier's rules and instructions, caused his own dismissal; that the carrier was fully justified in terminating his employment, and, further, since the carrier justifiably dismissed claimant, there is no merit whatsoever to this claim of the employes and it must 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.

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

Claimant was dismissed from service following investigation to determine responsibility for accident wherein company communications truck operated by claimant collided with a car resulting in injuries to its occupants and damages to both vehicles.

Claimant admitted that while driving the company truck and engaged in company business he made a left turn at an intersection on the main street of Stanley in the face of an approaching car; that it was getting dark and the street was icy and rough; that he knew his directional lights were not operating and he made no hand signal; that he saw the approaching car about a block away. The record shows that the right front of the truck and the left front of the car were damaged.

The circumstances of the accident and the serious result gave substantial ground for dismissal. Claimant had a representative present at the investigation and announced his readiness to proceed. At the close of the investigation he stated that he took no exception to the method of procedure. Thereby he waived any objection to the notice. The evidence objected to was connected with the cause of the accident and properly received.

3668—14

783

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of February 1961.