

Award No. 3725

Docket No. 3714

2-NKP-EW-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 57, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Electrical Workers)**

**THE NEW YORK, CHICAGO AND ST. LOUIS RAILROAD
COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: (a) That Electrical Worker Wm. D. Buchanan was unjustly dealt with and the provisions of the agreement violated when he was dismissed from the service of the Carrier effective at the close of work May 6, 1959.

(b) That accordingly, the Carrier be ordered to compensate Mr. Buchanan for all time lost as a result of such unjust discharge and to restore him to service with seniority and vacation rights unimpaired.

EMPLOYEES' STATEMENT OF FACTS: (a) On April 20, 1959, monthly rated Electrical Worker Wm. D. Buchanan was disciplined without a hearing when he was notified that he would be docked one day's pay for Saturday, April 18, 1959.

(b) On April 20, 1959, Mr. Buchanan was notified of a hearing to be held April 27, 1959, on the following charges:

- 1. Falsification of information shown on work report covering Friday, February 13, 1959.**
- 2. Falsification of time report 258 for February 13, 1959, showing 8 hours time worked.**
- 3. Falsification of expense account X-28, covering expenses for February 1959, on which was shown evening meal costing \$1.58, at Bellevue, Ohio, for February 13, 1959.**
- 4. Not being available for call at permanent residence address at headquarters on Saturday, April 18, 1959, per job requirements.**

(c) Mr. Buchanan was notified by letter dated May 5, 1959, that he was being dismissed from the service of the company effective at the close of work May 6, 1959.

On the basis of the record, there are no grounds for any claim that Claimant Buchanan was unjustly dealt with and should be restored to service with compensation for all time lost. Neither is there any basis for a request that he be restored to service on a leniency basis. The claim should be denied in its entirety.

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 waived right of appearance at hearing thereon.

Claimant was dismissed following investigation of four charges. Appeal was taken properly from the decision of the Superintendent of Communications, who conducted the investigation, both as to reinstatement and pay for time lost. See Award 3280 of this Division.

The setting out of a detailed statement and analysis of the facts and circumstances here would serve no good purpose. There was substantial evidence to support sustaining all the charges but mitigating circumstances also appear. Claimant has now been out of service for more than two years and after a careful study of the transcript and submissions we find that claimant has been sufficiently disciplined by his suspension up to the time he may be reinstated hereunder and further punishment would be unjust; that he should now be restored to service with seniority rights unimpaired but that he should not receive compensation for time lost.

AWARD

Claim for restoration to service with seniority and vacation rights unimpaired sustained but claim for compensation for time lost denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1961.