

Award No. 4424

Docket No. 4302

2-JaxTerm-CM-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Joseph M. McDonald when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATON NO. 50, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)**

JACKSONVILLE TERMINAL COMPANY

DISPUTE: CLAIM OF EMPLOYES: (1) That under the current agreement., Carman C. C. Strandberg was unjustly dismissed from the service July 25, 1961.

(2) That accordingly, the Carrier be ordered to restore him to service with all service rights unimpaired and compensate him for all wage loss resulting from said dismissal.

EMPLOYES' STATEMENT OF FACTS: C. C. Strandberg, hereinafter referred to as the claimant, was employed as carman March 8, 1952 by the Jacksonville Terminal Company, hereinafter referred to as the carrier, and on June 3, 1961 was assigned to work at the passenger station on the first shift 7 A. M. to 3 P.M.

On July 7, 1961, claimant was notified to report to the office of carrier's master mechanic for formal investigation in connection with the charge that claimant had failed to protect his job on June 3, 1961—having absented himself without an acceptable excuse.

The hearing was held on July 17, 1961.

On July 25, 1961, claimant was advised by carrier's master mechanic that he was dismissed from the service effective that date.

This dispute has been handled with the carrier up to and including the highest officer so designated by the company with the result that he has declined to adjust it.

The agreement effective April 16, 1939, as subsequently amended, is controlling.

POSITION OF EMPLOYES: It is respectfully submitted that the claim-

4. The current agreement in evidence was complied with to the letter.

5. Principles of previous decisions by the Courts and the Board fully support carrier's action in dismissing Claimant Strandberg for just and sufficient cause.

6. Having been dismissed for cause, Mr. Strandberg has no contract right to re-employment or to be paid the sum of money here demanded on his behalf.

Carrier submits that this claim on behalf of Mr. Strandberg is entirely without merit and support and that your Board will deny it 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 were given due notice of hearing thereon.

Claimant was dismissed from the service of the carrier effective July 25, 1961, following a formal hearing held on July 17, 1961.

He was found guilty of having failed to protect his job on June 3, 1961 when he absented himself without an acceptable excuse.

We have reviewed the transcript of the evidence, together with the arguments and statements of record, and find that there was a Rule violation which called for the exercise of disciplinary action. However the discipline of dismissal from the service was not warranted under the circumstances here revealed.

Accordingly, Claimant is now entitled to be returned to duty, with his service rights restored, but without compensation for any wage loss.

AWARD

Claim No. 1. Sustained in Part.

Claim No. 2. Sustained in Part.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 18th day of February, 1964.