

Award No. 4457
Docket No. 4259
2-TRRAStL-MA-'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 FEDERATION NO. 25, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—C. I. O. (Machinists)**

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

DISPUTE: CLAIM OF EMPLOYEES:

1. That Machinist A. E. Krachenfels was unjustly dealt with when he was suspended from the service of the Terminal Railroad Association of St. Louis, Missouri on November 12, 1961, and dismissed from the service of the Terminal Railroad effective November 22, 1961.
2. That accordingly, the Terminal Railroad Association of St. Louis, Missouri be ordered to:
 - (a) Restore Machinist Krachenfels to service with seniority unimpaired and compensated for all time lost from his assignment on the basis of what he would have earned had he not been dismissed from the service beginning November 12, 1961 until he is restored to service.
 - (b) Compensate Machinist Krachenfels for any vacation he may have earned in the year 1962 and for all future vacations thereafter until he is returned to service.

EMPLOYEES' STATEMENT OF FACTS: Machinist Albert E. Krachenfels, hereinafter referred to as the claimant, was employed by the Terminal Railroad Association of St. Louis Missouri, hereinafter referred to as the carrier, on May 12, 1943. The claimant's duties consisted of repairing steam locomotives, diesel locomotives and other such equipment.

Under date of November 12, 1961, the claimant was advised by the carrier that he was being suspended from service immediately, and we herewith quote the carrier's letter of November 12, 1961, for your Honorable Board's convenience:

Krachenfels on the afternoon of November 10, 1961. Incidentally, at this writing Harold Kuebler is regularly assigned as machinist helper, the same position he held as of November 10, 1961.

The efforts of the general chairman in the letter of December 5, 1961, were next devoted to discrediting the testimony of other witnesses. The superintendent motive power and equipment's letter of January 22, 1962, deals adequately with this phase of the general chairman's contentions.

The carrier submits that the record in this case contains abundant proof that the claimant was guilty of the charge preferred; that being found guilty, the claimant's previous record with the company was such that it provided absolutely no basis for leniency being shown; that the general chairman's efforts in no way disprove the evidence against Krachenfels, but consist almost entirely of unfounded and unsupported charges, obviously designed to discredit the testimony of all witnesses; and that this Board should uphold the discipline assessed and deny the organization's claim that Krachenfels be restored to service and compensated for all time lost, including vacations to which entitled.

With respect to the employes' claim itself, it is the position of the carrier that that portion seeking compensation "for all time lost" would, in any event, be subject to reduction to the extent of earnings received in other employment. This is provided for in Rule 32 of the agreement between the parties previously quoted and is in accordance with the holdings of this division. See Awards 3110, 3280 and 3444.

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 contends that he was unjustly dealt with when he was suspended from service by Carrier on November 12, 1961, and subsequently dismissed from service effective November 22, 1961.

Claimant was given notice and a hearing was had charging him with failure to properly perform his work due to being under the influence of intoxicants when reporting for duty on November 10, 1961.

We have examined the transcript of the evidence adduced at the hearing, together with the arguments and statements contained in the file of this dispute.

There is substantial evidence to support the charge, the rules were complied with, and we cannot say that Carrier was guilty of any arbitrary action. The penalty imposed is not excessive under the circumstances, and we decline to substitute our judgment for that of the Carrier.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February, 1964.