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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 6346  
Docket No. 6169  
2-SCL-MA-'72

The Second Division consisted of the regular members and in addition Referee Robert G. Williams when award was rendered.

Parties to Dispute: ( System Federation No. 42, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Machinists)  
(  
( Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That the Carrier violated the controlling agreement on May 22, 1970, when it held Machinist Apprentice Ronald A. McCall out of service pending investigation.
2. That the Carrier unjustly dismissed Ronald A. McCall on June 11, 1970 following investigation held on May 27, 1970.
3. That accordingly he is entitled to be compensated for all wages lost and fringe benefits connected with his employment from May 27, 1970, continuous with his assignment until he is returned to service.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and 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.

The Organization has contended that the Claimant was not notified of specific rule violations prior to his hearing on the property. A review of the Carrier's notice of hearing shows the circumstances of the dispute were adequately described. The Carrier's allegations in the notice alerted the Claimant to the nature of the case so he could properly prepare his defense. The Claimant was quite aware that he was being charged with misconduct and the Carrier was following established procedures under the Agreement for processing disciplinary cases.

A careful review of the hearing transcript reveals certain undeniable facts: On May 22, 1970, the Claimant was touched by a fellow employee whereupon the Claimant assaulted this employee by using abusive language, hitting him with a fist and threatening him with a piece of pipe. Such misconduct is grounds for discharge.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: E. A. Killean  
Executive Secretary

Dated at Chicago, Illinois, this 7th day of July, 1972.