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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 6396  
Docket No. 6205  
2-SOU-CM-'72

The Second Division consisted of the regular members and in addition Referee Irving R. Shapiro when award was rendered.

Parties to Dispute: ( System Federation No. 21, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
(  
( Southern Railway Company

Dispute: Claim of Employees:

1. That under the current Agreement, Carman Arlie Stalans, Knoxville, Tennessee, was improperly suspended from service July 22, 1970 through August 5, 1970.
2. That accordingly, the Carrier be ordered to compensate Carman Arlie Stalans for all time lost beginning July 22, 1970 through August 5, 1970.

Findings:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Petitioner contests the imposition upon claimant of a two weeks suspension from work without pay, claiming that there was not just and sufficient cause for such disciplinary action.

There is no dispute concerning the facts. The Petitioner charges that the claimant, classified as a car inspector, who had long service with the Carrier and a good employment record, was penalized for an error of judgement in approving a load for transit which later came undone and caused damage.

The Carrier established that the load, authorized for movement by the claimant, was not properly secured in accordance with the loading rules knowledgeable as part of his job. He should have ordered the car cut out of the train until the load thereon had been secured in accordance with the rules. Failure to do so constituted (reliction of duty, warranting severe punishment, according to the Carrier.

This Board is ever mindful of the need of the Carriers and their employees to exercise maximum care to assure protection of life, limb and property of all concerned in the operation of railroads. Survival of this means of transportation is dependent upon active concern for safety on the rails. The car inspector position is precisely for this purpose. Claimant was afforded training in all aspects of factors relating thereto. An error such as that committed by claimant could have resulted in extremely serious consequences, detrimental to the public, the carrier and his fellow employees.

This Board has found that it is inappropriate for it to substitute its own judgement for that of the employer in determining whether certain conditions might warrant excusing failure to comply with reasonable standards of performance. We have stated that if claimant was afforded a fair hearing, the record indicates substantial evidence to sustain a finding of infraction an abuse of discretion, we will not reverse the determination of the Carrier. (See Awards 1323, 2087, 2769, 3092, 3874, 4000, 4001, 4098, 4132, 4195, 4199, 4693, 6027, 6196, 6240.)

We find that the carrier herein met the burden required by the above criteria.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

E. A. Killen  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of October, 1972.