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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 6535  
Docket No. 6352  
2-BN-EW-'73

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

Parties to Dispute: ( System Federation No. 7, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Electrical Workers)  
(  
( Burlington Northern Inc.

Dispute: Claim of Employees:

1. That in violation of the current agreement Electrician R. A. Jacobs was unjustly dealt with when under date of April 16, 1971, Carrier arbitrarily dismissed him from the services of the Carrier.
2. That accordingly the Carrier be ordered to restore Electrician R. A. Jacobs to service with all seniority, pass privileges, hospitalization, holidays, vacations and any other rights, privileges and benefits allowable under rules, agreements and/or law and compensated for all lost wages together with an additional six percent (6%) interest on all such lost wages.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all 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 waived right of appearance at hearing thereon.

Claimant, an electrician, had been employed by Carrier in Chicago since October 13, 1966. On March 19, 1971 Claimant was notified that he was being held out of service pending the results of an investigation which was scheduled for March 25, 1971, ". . . for the purpose of ascertaining the facts and determining your responsibility in connection with your having been found in an intoxicated condition . . . on March 17, 1971, in violation of Rule G." The investigation was held as scheduled and subsequently Claimant was dismissed from service.

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Petitioner argues that the language of the notice, quoted above, constituted a pre-judgment of the case and was prejudicial to Claimant. We construe the language to be merely a statement of an allegation to be investigated and not per se prejudicial. This conclusion is supported by the record of the investigation which does not show any impediment of the rights of Claimant or any bias.

Substantial testimony at the hearing together with the admission of Claimant that he had been drinking on March 17, 1971 amply support Carrier's conclusion of guilt upon which the dismissal was based. We find no basis for an affirmative award.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

E. A. Kellum  
Executive Secretary

Dated at Chicago, Illinois, this 26th day of June, 1973.