

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

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers, A.F.L. - C.I.O.
(Chicago, Milwaukee, St. Paul and Pacific
(Railroad Company

Dispute: Claim of Employees:

1. The Carrier improperly suspended Roger Pryor, Machinist Helper, Milwaukee, from service for a period of seven days extending from January 21 to January 27, 1974 inclusive.
2. The Carrier will now compensate Roger Pryor for payment of all wages lost while suspended from service during the period January 21 to January 27, 1974 inclusive, and for other benefits during this period including credit for time lost during this period for vacation and other rights.

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.

The present claim challenges the propriety of a seven day suspension administered to a machinist helper for refusing to obey a direct order of his immediate supervisor to operate the boom crane at Roundhouse No. 2 in Milwaukee, Wisconsin.

The record establishes that Claimant did refuse to carry out a clear order given to him by Foreman Urbanski to operate the boom crane to help the B and B Gang erect a wooden beam in Roundhouse No. 2. The work was required in order to reinforce the roof before the construction company came to remove a section of the roof structure. When asked by the Foreman to do the work, Claimant replied that he would not because the building

was under construction and unsafe and after the Foreman walked away and Claimant's committeeman approached Claimant, the latter explained that "the area was under construction and there were no lights and you couldn't see the controls on the boom crane and I wasn't familiar with operating the boom crane every day and I thought that I did not want to hurt anybody in the immediate area because I couldn't see which controls and the end of the crane."

Particularly on railroads where operations are so frequently far-flung, it is important to uphold and enforce strictly unambiguous orders by competent authority to employees. As we have consistently ruled, if an employee considers an order improper or unreasonable, his proper course is nevertheless to comply with the order immediately and, if he desires, to contest it later through the orderly processes of the grievance machinery. The realistic wisdom of this principle is quite apparent and, as noted above, it will be strictly enforced.

An exception to this rule exists when compliance with an order may reasonably subject the employee to physical danger. We are not satisfied from this record that Claimant's expressed concern as to safety was groundless, contrived or merely an afterthought. No other employee carried out the order until floodlights had been brought in by Carrier to light up the area. There is no indication that Claimant was merely using the condition to avoid work or defy management.

The record supports Claimant's expressed concern and we do not find that under the circumstances of this case his failure to detail all the grounds for his concern in his brief conversation with the Foreman defeats the claim. There appears to have been a reasonable basis for Claimant's fear, as a machinist helper who did not have daily experience with the crane, that its operation under the conditions existing at the time he was given the order involved immediate peril to himself and possibly other employees.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of August, 1975.