

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

Parties to Dispute:

( System Federation No. 1 Railway Employees'  
( Department AFL-CIO Electrical Workers  
( George P. Baker, Robert W. Blanchette, and Richard  
( C. Bond, Trustees of the Property of Penn Central  
( Transportation Company, Debtor

Dispute: Claim of Employees:

1. That on December 18, 1972, the Carrier improperly suspended Electrician John H. Barclay from service pending and subsequent to investigation, and;
2. That on January 15, 1973, the Carrier unjustly dismissed Electrician John H. Barclay from service.
3. That accordingly, the Carrier be ordered to compensate Electrician John H. Barclay his applicable straight time rate of pay from December 18, 1972 to January 14, 1973, account improper suspension, and;
4. That accordingly, the Carrier be ordered to compensate Electrician John H. Barclay his applicable straight time rate of pay from January 15, 1973, and each work day thereafter until restored to service account the unjust dismissal.
5. That accordingly, Electrician John H. Barclay be resotred to service with all seniority rights, benefits, and privileges unimpaired, including vacation 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 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 were given due notice of hearing thereon.

As a result of an altercation between Claimant and a fellow employe involving obscenities by the fellow employe and physical assault in response by Claimant. Claimant was withheld from service pending hearing and investigation, and was charged with, "Being argumentative and striking a fellow employe, Machinist C. Ward, during your tour of duty on December 18, 1972."

After investigation and hearing Claimant was dismissed from Carrier's service.

An examination of the record in this dispute compels the conclusion that Carrier properly held Claimant out of service pending investigation and that Carrier was not arbitrary or capricious in the action taken.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch /es  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of August, 1975.