

The Second Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

Parties to Dispute: (System Federation No. 97, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(The Atchison, Topeka and Santa Fe Railway Company

Dispute: Claim of Employees:

- (1) That the Carrier erred and violated the contractual rights of W. R. Schultz and A. J. Ritter, Jr. when they were suspended from service pending an investigation.
- (2) That, therefore, Mr. Schultz and Mr. Ritter be compensated for all time lost from date suspended to date discharged.

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 waived right of appearance at hearing thereon.

Claimants, Electrical Trainees of less than one year's seniority were caught sleeping on duty in a chair car with pillows beneath their heads on the evening of September 28, 1973. The facts involved in this case are set forth in greater detail in our recent Award 7006 wherein we deny their claim for reinstatement to the positions from which they were discharged following investigation on October 5, 1973. In that Award we found that there was no procedural irregularity, that substantial evidence supported the charges and, that in light of the nature of the offense and their generally unsatisfactory performances, no mitigating circumstances warranted the substitution of our judgment for that of Carrier with request to the quantum of discipline assessed.

Petitioners herein move that, irrespective of the merits of the case for dismissal, Claimants were improperly suspended from service under Rule 33 $\frac{1}{2}$ between the dates of September 28, 1973 and October 5, 1973, when they were dismissed from all service, and should be compensated at least for that much time.

We have reviewed this position in light of our earlier Awards 1541 and 4123, dealing with substantially identical language and position. We see in this case, no basis for deviating from the findings enunciated therein with respect to suspension under Rule 33 $\frac{1}{2}$ in sleeping cases. Claimants' suspensions in the circumstances and in the face of that authority cannot be held improper.

Upon the basis of the foregoing and consideration of the entire record we are constrained to deny the claims.

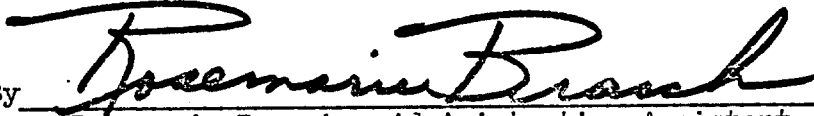
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 20th day of February, 1976.