

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. 2, Railway Employees'  
Department, A. F. of L. - C. I. O.  
(Carmen)  
( The Alton & Southern Railway Company

Dispute: Claim of Employees:

1. That Carman James M. Horvath was improperly assessed thirty (30) days deferred suspension to his personal record, October 4, 1974.
2. That accordingly, the Carrier be ordered to remove the thirty (30) days deferred suspension from Carman James M. Horvath's record.

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.

Claimant was assessed a 30-day deferred suspension for absenting himself from his work after being identified as one of three men observed by Carrier's Special Agent riding in a truck away from his assigned work area as a carman.

The Organization contends that Carrier was "very hesitant to live up to Rule 19(A)" of the current agreement which provides in pertinent part: "If stenographic report of investigation is taken the committee shall be furnished a copy."

The record shows that while the General Chairman did not receive a copy of the transcript from Carrier directly, he did receive it from the Local Chairman. Under the circumstances Claimant was in no way prejudiced.

The Organization further contends that the Special Agent was biased in that he singled out Claimant and not the others. The Special Agent testified that he observed three men in the truck but could only positively identify Claimant. The Organization, in our opinion, has failed to show bias.

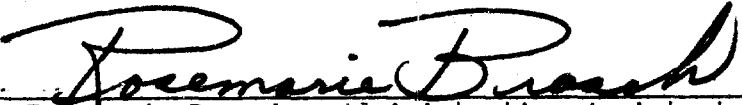
While there was conflicting testimony, the testimony offered by Carrier was substantive evidence of probative value and we shall not disturb the result.

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 15th day of October, 1976.