

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr., when award was rendered.

Parties to Dispute: (System Federation No. 106, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(The Washington Terminal Company

Dispute: Claim of Employees:

1. That under the current agreement, Car Cleaner, Walter O. Owens, was unjustly and excessively dealt with when he was removed from the service on July 21, 1974 and dismissed from the service effective August 9, 1974.
2. That accordingly, The Washington Terminal Company be ordered to restore Car Cleaner, Walter O. Owens, to the service of the Carrier with seniority unimpaired.

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, after eight months' service with the Carrier, was dismissed for "becoming involved in an altercation with fellow employee". At the hearing on the matter, Claimant concurred that an altercation had taken place. Dismissal was under Carrier's General Rule N, which read as follows:

"Employees must be of good moral character and must conduct themselves at all times, whether on or off Company property, in such manner as not to bring discredit upon the Company."

"Stealing, falsifying reports, being insubordinate, engaging in altercations, gambling, playing games, participating in any illegal, dishonest, or immoral activity, while on duty or while on Company property is prohibited."

"Participating in any unauthorized or unnecessary activity, while on duty or while on Company property, is prohibited. Employees are prohibited from entering cars except in the performance of their duty. Loitering in cars is prohibited."

This rule does not specify dismissal as the sole punishment for its violation, nor does it omit dismissal as a discretionary action by the Carrier in its judgment of the circumstances.

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 30th day of November, 1976.