

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

Parties to Dispute: (System Federation No. 1, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Indiana Harbor Belt Railroad Company

Dispute: Claim of Employees:

1. That Carrier improperly suspended Carman Daniel Siniawski and unjustly dismissed him after hearing on November 26, 1974.
2. That accordingly Carrier be ordered to restore Carman Siniawski to service with all rights 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 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 charged with negligence in the performance of his duties and falsification of company records during his 11 p.m. November 18, 1974 to 7:00 a.m. November 19, 1974 shift. In addition, he was suspended from service prior to investigation.

Subsequent to the hearing, Claimant was dismissed from service.

The Claimant had certain experience in inspecting cars for "car control"; which involves a determination of fitness for loading at each industry. Cars are inspected by length, width, width of floor, width of door and general condition concerning dirt, bad order, etc.

On the tour in question, Claimant was to inspect four (4) designated cars and he purportedly did so. The report he submitted contained information which would suggest that the cars were "box cars", whereas -- in point of fact -- they were gondola cars.

The Claimant conceded that he may have been negligent, and insists that he checked the wrong cars by honest mistake. But, he admits that he should have checked the car numbers first which would have precluded such a mistake. The incorrect information was detected before it caused the Carrier damage and embarrassment.

The Board has fully reviewed the record, including the transcript of the hearing. We feel that Carrier was fully justified in reaching its conclusions and imposing the disciplinary action which it did. The suspension pending investigation was clearly authorized by Rule 36:

"Suspension in a proper case pending a hearing ...
shall not be deemed a violation of this rule."

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 25th day of February, 1977.