

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. 7, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(Burlington Northern Inc.

Dispute: Claim of Employees:

1. That in violation of the current working agreement, Mr. J. W. Cherry, Electrician, Burlington Northern Inc., was unjustly suspended from the service of the Carrier from September 6 through 10, 1974.
2. That, accordingly, the Carrier be ordered to compensate Mr. Cherry for all time lost and the record of the suspension be removed from his personal 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.

On August 1, 1974, Claimant was instructed to attend an investigation regarding an asserted failure to power check certain units.

Subsequent to investigation, Claimant was suspended from service for five (5) days.

On August 1, 1974, Claimant connected the jumper cable between Engine BN 6469 (lead unit) and UP 2900 (trailing unit). Carrier states that it is the Electrician's responsibility to power check before the train departs to assure that all diesel units in the consist are developing power. The train in question was delayed after it departed Cicero because the trailing unit was not developing power, and there was an additional delay.

We have considered the various assertions made by Claimant. For instance, he notes that the work sheets and maintenance sheets no longer make mention of power checks, and he asserts that Supervisory Personnel have "called him down" for performing certain "gratuitous" tasks.

Although Claimant states that he was not instructed to perform a power check on the specific date in question, we feel that his testimony, as recorded at Pages 28 and 29 of the transcript of investigation, are clearly dispositive of the issues:

"145. Q. Mr. Cherry, I will read out of the Burlington Northern Safety Rules, Rule No. 667:

'Employees must comply with instructions from the proper authority.'

Do you understand the provisions of this rule?

A. Yes, sir.

146. Q. Have you been instructed to properly connect jumper cables between units?

A. Yes, sir.

147. Q. Have you been instructed by supervision at Clyde to power check units before they depart on a train.

A. Yes, sir.

148. Q. Did you properly connect the jumper cable on these two units?

A. Electric cables and receptacles, yes, sir.

149. Q. Did you inspect the receptacles to see that all the pins were in good condition?

A. No, sir.

150. Q. When you didn't power check these units, how did you know that they would develop power?

A. I didn't.

151. Q. Did you follow instructions when you didn't power check the units?

"A. Well, I was looking for a hostler or hostler helper to power check and I couldn't find one at that time and they took it before it was power checked.

152. Q. Did you contact your supervisor and tell him that the units had not been power checked for No. 1?

A. No. I didn't.

153. Q. Wouldn't this be part of your duty if you are not going to power check the unit to tell the supervisor?

A. Yes, sir.

154. Q. When you couldn't find a hostler or hostler helper to make this power check, why didn't you tell a supervisor?

A. I just didn't.

155. Q. Did you forget to tell him?

A. Yes, sir.

156. Q. Wouldn't it be part of your instructions as an electrician there at Clyde to see that the Foreman is notified so that somebody else would power check the unit?

A. Yes, sir.

157. Q. Do you understand that if the units aren't power checked they are likely to go out and cause trouble on the road pulling a train?

A. Yes, sir."

Based upon the testimony cited above, and the record as a whole, we will deny the claim.

A W A R D

Claim denied.

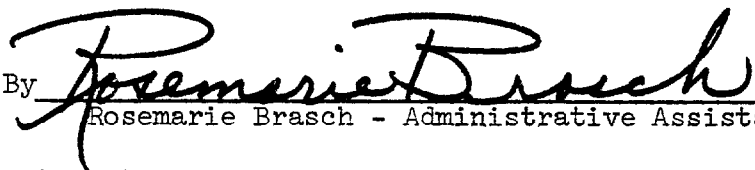
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Award No. 7254
Docket No. 7072
2-BNI-EW-'77

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 29th day of March, 1977.