

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: (System Federation No. 91, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Firemen & Oilers)
(Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. That under the Current and Controlling Agreement, Service Attendant R. W. Jackson was unjustly suspended from the service of the Louisville and Nashville Railroad Company on November 27, 1974 and was subsequently dismissed on January 6, 1975 after a formal investigation was held on December 16, 1974.
2. That accordingly, Service Attendant R. W. Jackson be restored to his assignment at South Louisville Shops with all seniority rights unimpaired, vacation, health and welfare, hospital and life insurance to be paid and compensated for all lost time, effective November 27, 1974.

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.

The Claimant, Mr. R. W. Jackson, was employed as a Service Attendant at the Carrier's Shops in Louisville, Kentucky with a seniority date of November 2, 1970. On December 2, 1974, Claimant was charged with falsifying a signature on a known stolen pay check belonging to Electrician J. C. Custer on or about November 8, 1974 (Employee Exhibit "A"). An investigation was held on this matter on December 16, 1974. By letter dated January 6, 1975, the Claimant was notified that as a result of evidence adduced at the investigation he was dismissed from the service of the Carrier (Employee Exhibit "D"). The record shows that the Claimant was given a proper charge. He was ably represented. He had full opportunity to question all witnesses and present his own case with the aid of his representative. The Claimant admitted his guilt at the investigation:

- "Q. Mr. Greenwell submitted a signed, notarized and witnessed statement dated November 27 from you acknowledging that you did endorse a pay check belonging to Mr. J. C. Custer. Was that statement signed by you?
- A. Yes.
- Q. Do you at this time in any way want to refute that statement?
- A. No."

While it is a fact that the Claimant was cooperative in the case, the discipline of discharge is not arbitrary, capricious or excessive in the case of such a serious matter. It is well settled that Carrier is not required to keep in service an employee who is dishonest. We shall deny the claim.

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 5th day of April, 1977.