

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. 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, Equipment Servicer Terry A. Hatchett was unjustly dealt with when he was suspended from the service on August 10, 1975 and subsequently dismissed from the service of the Carrier, The Washington Terminal Company effective September 15, 1975.
2. That accordingly, The Washington Terminal Company be ordered to return Equipment Servicer T. A. Hatchett, to the service of the Carrier with seniority and vacation rights unimpaired and compensated for all time lost since August 10, 1975.

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, Service Equipment Operator T. A. Hatchett, an individual with eight months service in the employment of the carrier, was charged with:

"Burglary of the Food and Beverage Section in Amtrak Club Car 3322 approximately 11:35 P.M.; on August 10, 1975."

A formal hearing was held on the charge on September 3, 1975. By letter dated September 15, 1975 the Claimant was notified that he was found guilty as charged, and was dismissed from the service of the Carrier.

The Organization contends that the Carrier has failed to sustain its burden of proof with sufficient evidence to support its finding of guilt. We disagree. We find that there was substantial evidence in the record to support the Carrier's finding of guilt in this case, including the testimony of Patrolman Schall, the presence of the Claimant in the car, the inherently unconvincing excuse given by the Claimant for being in the car, and the finding of the flashlight and large screw driver on the service bar. The discipline of dismissal is not arbitrary, capricious or excessive in the instant case. We will deny the Claim.

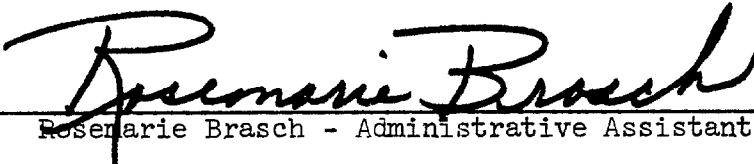
A W A R D

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.