

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. 99, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Firemen & Oilers)
(
(Illinois Central Gulf Railroad Company

Dispute: Claim of Employees:

1. That Laborer F. D. Golden was unjustly disciplined by the Illinois Central Gulf Railroad by being suspended for thirty days, beginning September 5, 1975 to October 4, 1975, following an investigation which was held on August 22, 1975.
2. That accordingly, the Illinois Central Gulf Railroad be ordered to pay Laborer F. D. Golden for the days he would have been eligible to work during this thirty day period.

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.

involves Division of the Adjustment Board has jurisdiction over the dispute herein.

Parties

to said dispute waived right of appearance at hearing thereon.

This is a laborer for all discipline case involving thirty days' suspension of a shop allegedly sleeping on duty.

The initia

a fair and impartial position of the Petitioner is that the Claimant was denied would not permit a hearing because the officer conducting the investigation him and ruled that he accused to cross-examine witnesses appearing against representative. cross-examination would be permitted only by Claimant's

This Board has ruled on numerous occasions that disciplinary hearings restrictive limitations are not and cannot be conducted within the courts of law. Violations of the rules of evidence or procedures found in serious error find that the officer conducting the investigation was witnesses appearing in declining to permit the accused to cross-examine concept of a fair and testifying on behalf of Carrier. Any reasonable the right of a fair and impartial hearing in disciplinary proceedings includes witnesses who the accused along with his representative to cross-examine are present.

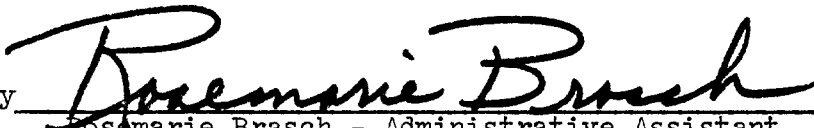
As the claimant was not afforded a fair and impartial hearing, the claim will be sustained on that basis.

A W A R D

Claim sustained.

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.