

The Second Division consisted of the regular members and in addition Referee James C. McBrearty 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 Employee:

1. That under the Current and Controlling Agreement, Service Attendant T. K. Price was unjustly dismissed from the service of the Louisville and Nashville Railroad Company on August 21, 1975, after a formal investigation was held in the office of Mr. R. L. Spain, Staff Asst. to Manager, on August 12, 1975.
2. That accordingly, Service Attendant T. K. Price be restored to his assignment at South Louisville Shops with all seniority rights unimpaired, vacation, all Health and Welfare, Hospital and Life Insurance rights be paid and compensated for all lost time, effective August 22, 1975, at the pro-rata rate of pay.

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 entered Carrier's service on October 15, 1973 as a service attendant at South Louisville Shops, and was so employed there in that capacity at the time of the offense resulting in his dismissal.

On July 10, 1975, Claimant arrived 20 minutes late for work at 7:20 A.M. Later that morning at 10:05 A.M. Claimant was found in the cab of locomotive 1559 "stretched out flat across the fireman's and brakeman's seats asleep."

An investigation into this matter was held on August 12, 1975. As a result of the evidence adduced at the investigation, Claimant was dismissed from Carrier's service by letter dated August 21, 1975.

A review of the record in this case reveals that Claimant admitted he was sleeping between 10:05 A.M. and 10:25 A.M., and three (3) witnesses saw Claimant sleeping. In addition, Claimant had been found sleeping on prior occasions, and Claimant had received one written and four verbal reprimands for assorted offenses such as poor attendance, poor work habits, and failure to perform his duties, over the period February 18, 1975 through June 17, 1975.

Consequently, in view of the admitted offense, and Claimant's poor prior record, this Board can find no basis for disturbing Carrier's discipline. Therefore, the claim will be denied.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 12th day of July, 1977.