

The Second Division consisted of the regular members and in addition Referee Robert A. Franden when award was rendered.

Parties to Dispute: (System Federation No. 6, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
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(Peoria and Pekin Union Railway Company

Dispute: . Claim of Employees:

1. That under the current Agreement the Carrier improperly dealt with and thereby damaged Car Inspector Donald Unes when he was assessed five (5) working days suspension on September 19, 1975.
2. That accordingly the Carrier be ordered to compensate Car Inspector Donald Unes for five days' 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 employee or employees involved in this dispute are respectively carrier and employee 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 was charged by letter of September 4, 1975, of using profane language toward, and engaging in an altercation with, I.T.C. Terminal Supervisor William Slama during the course of duty with Carrier, August 29, 1975.

The formal investigation scheduled for September 9, 1975, was, at the request of the Local Chairman, postponed until September 11, 1975, after which Claimant was given five (5) working days suspension.

At the investigation Mr. Slama, officer of the I.T.C. which has contracted with Carrier for certain services, testified that Claimant became very angry and abusive toward him and hit him in the jaw. This alleged attack was a result of Mr. Slama reporting that Claimant was sleeping in the caboose he was assigned to service. Claimant denies the profanity and striking of Mr. Slama.

Prior award of this Division have made it clear that it is not the function of this Board to substitute its judgment where there is conflicting testimony so long as there is substantial evidence to support the result of the hearing (Second Division Award 6372). If we were to decide every case in favor of a Claimant where it was one man's word against another, all that would be required would be a denial of the charge. In this case there is no reasonable explanation to support a finding that Mr. Slama, who was not acquainted with Claimant, would fabricate such charges. Neither do we find sufficient grounds to support the allegation that Claimant did not receive a fair trial.

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 / ae
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of September, 1977.