

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. 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. K. Trotter was unjustly suspended from the service of the Louisville and Nashville Railroad Company on July 9, 1975, and after a formal investigation was held in the office of Mr. R. L. Spain, Staff Asst. to Manager, was dismissed from service on August 13, 1975.
2. That accordingly, Service Attendant R. K. Trotter be restored to his assignment at South Louisville Shops with all seniority rights unimpaired, vacation, Health and Welfare, Hospital and Life insurance rights be paid and compensated for all lost time, effective July 16, 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 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, who had been in Carrier's service about one year and four months, was dismissed from Carrier's service on August 13, 1975, following investigation on the following charges:

"You are charged with uncivil, profane and insubordinate actions toward Asst. Divn. Mgr. C. L. Little and Dept. Foreman R. K. Harris, on Sunday, July 6, 1975, at approximately 9:15 a.m., and with leaving your job assignment without permission on July 5, 1975, at approximately 12:20 p.m. and again on July 6, 1975, at approximately 9:30 a.m."

The Board has carefully reviewed the transcript of the investigation and find that none of claimant's substantive procedural rights was violated. The Board also finds claimant was guilty of insubordination in deliberately leaving the job without permission on July 5 and 6, 1975. Further, his actions toward the Assistant Division Manager and Department Foreman on July 6, 1975, were offenses that cannot be condoned.

Based on all the facts, there is no basis for disturbing the action of the Carrier.

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 1st day of November, 1977.