

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

Parties to Dispute: (System Federation No. 1, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Indiana Harbor Belt Railroad

Dispute: Claim of Employees:

That as a result of hearing held October 19, 1974, the dismissal of Carman L. G. Flannigan was far too severe a penalty. That the charges against Carman Flannigan certainly did not warrant being discharged. That rule 36 of the current working agreement was violated, as a precise charge was not made that Carman Flannigan's statements or the statements of his witness were not taken into account. That Carman Flannigan be returned to service with all rights unimpaired, including insurance and vacation.

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 with the removal of facial tissues from a bad-order car and placing them in his automobile. After investigation and hearing Claimant was found culpable of pilfering and dismissed from Carrier's service.

During the handling on the property and as evidenced by the claim, it appears that the matter was treated as a request for leniency. Under such circumstances, the Board is not authorized to substitute Carrier's judgment with that of the Board.

Even if the Board were able to overcome the procedural hurdle and consider the matter on the merits, it would be compelled to find that the Carrier's action was warranted.

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Award No. 7389
Docket No. 7045
2-IHB-CM-'77

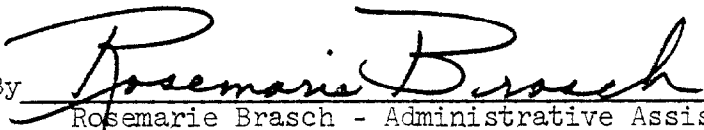
A W A R D

Claim dismissed.

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 8th day of November, 1977.