

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. 162, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Southern Pacific Transportation Company

Dispute: Claim of Employees:

1. That the Southern Pacific Transportation Company violated car inspector E. P. Bodiford's seniority rights in accordance with Rules 15 and 28 of the Agreement between Southern Pacific Transportation Company and the Employees Represented by System Federation No. 162, when they unjustly restricted Car Inspector E. P. Bodiford from exercising his seniority rights, effective January 13, 1975.
2. That accordingly, the Southern Pacific Transportation Company be ordered to allow Car Inspector E. P. Bodiford to exercise his seniority without any restrictions.

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.

The record before us indicates that Carrier was unaware that Claimant was legally blind (20-60 vision) in his right eye after a cornea transplant on July 31, 1961.

Carrier subsequently found out that Claimant was legally blind in his right eye, and on January 13, 1975, advised Claimant that he would no longer be allowed to exercise his seniority on vacancies on the Crest or the Yards in the Englewood Terminals. Further, Carrier advised Claimant that he would be restricted to being employed in the Shops.

From the record before us, we find that Carrier's requirement of physical fitness of its employees, including vision in both eyes, is both reasonable and necessary.

The duties of car inspecting in a large terminal such as Houston require a carman to be constantly on and near congested yard switching and through tracks, with cars, single or in drags, and locomotives moving in more than one direction at the same time. It is a matter of general knowledge in the industry that cars "kicked" in switching move silently and swiftly, and the principal safeguard against injury when working around such movements is a clear, full vision. A carman with vision from only one eye, in giving attention to his duties of inspecting or other repair work, would be in unreasonable peril of injury from other equipment moving about him.

Furthermore, as stated in Second Division Award No. 1074:

".....A car inspector's first and foremost duty, and the primary purpose of car inspection is safety. This entails careful visual inspection to discover defective conditions, if any, which render the car or cars unsafe and unserviceable. Good vision is essential and absolutely necessary to the proper discharge of the duties of a car inspector. To oblige this carrier to have employees with impaired vision inspect cars would be to invite the possibility of defects, involving safety of operation, being overlooked or signals being misinterpreted, resulting in unnecessary train operation hazards, and the possibility of train accidents involving property damage, including damage to or destruction of, locomotives and/or cars. Coupled with this is the even more serious aspect of increased peril to not only his own life, and that of his fellow-employees, but the public also."

(Also see Second Division Awards Nos. 3634, 3137, 2989, 2473, and 1478).

Therefore, we must deny the claim.

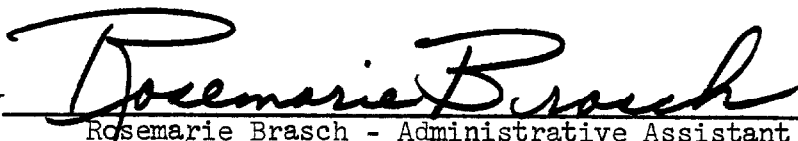
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 9th day of December, 1977.