

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. 97, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Boilermakers)
(
(Atchison, Topeka and Santa Fe Railway Company

Dispute: Claim of Employees:

That Boilermaker Jack H. Hysten's suspension from service on December 4, 1974 and his removal from the service of The Atchison, Topeka and Santa Fe Railway Company on December 11, 1974 was unjust; and, that accordingly, the Atchison, Topeka and Santa Fe Railway Company make Boilermaker Jack H. Hysten whole by;

1. Restoring Jack H. Hysten to his former position with all rights and fringe benefits unimpaired, including seniority, vacation, hospitalization and health and welfare.
2. That the Carrier pay Boilermaker Jack H. Hysten eight (8) hours at Boilermakers pro rata rate of pay for each work day for which employe is held out of service and violation corrected.
3. In addition to money amounts claimed herein, The Atchison, Topeka and Santa Fe Railway Company shall pay Claimant an additional amount of 6% per annum.

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.

By his own admission, Claimant concedes that he struck his foreman because Claimant was being harrassed and such harrassment began some two weeks before. It is also conceded that the alleged harrassment was not called to the attention of Claimant's representatives.

A review of the record in this dispute, including the hearing transcript, compels the finding that the substantive evidence of probative value warrants the action taken by Carrier. Under the circumstances there is no basis for a sustaining award.

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 6th day of January, 1978.