

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute:     { International Association of Machinists  
                              { and Aerospace Workers  
                              {  
                              { St. Louis-San Francisco Railway Company

Dispute: Claim of Employees:

1. That the St. Louis - San Francisco Railway Company unjustly dismissed Machinist Ollie Williams from service on August 2, 1976 for an alleged altercation between himself and Machinist R. W. Crain on July 11, 1976.
2. That accordingly, the St. Louis - San Francisco Railway Company be ordered to compensate Machinist Ollie Williams at the pro rata rate of pay for each work day beginning August 2, 1976 until he is reinstated to service. In addition, he shall receive all benefits accruing to any other employee in active service, including vacation rights and seniority unimpaired.
3. Claim is also made for Machinist Ollie Williams' actual loss of payment of insurance on his dependents and hospital benefits for himself, and that he be made whole for pension benefits, including Railroad Retirement and Unemployment Insurance.
4. In addition to the money claimed herein, the St. Louis - San Francisco Railway Company shall pay Machinist Ollie Williams an additional sum of 6% per annum, compounded annually on the anniversary date of said claim, in addition to any wages earned elsewhere in order that he be made whole.

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, upgraded Machinist Apprentice Ollie Williams, was dismissed from service on August 2, 1976, for violation of Rules A and B, which read in part:

Rule A: "Employees must not enter into altercations with any person, no matter what provocation may be given, but will make note of the facts and report to their immediate supervisor."

Rule B: "Employees who are quarrelsome or otherwise vicious will not be retained in the service."

The Organization objected to the hearing procedure in that the hearing officer issued the letter of charges and also imposed the penalty.

As indicated in many previous awards, most recently Award No. 7449 and Award No. 7450, this is not in itself prejudicial to a fair and impartial hearing. In the present instance, the Board finds no fault with the hearing procedure, which included giving the Claimant himself the opportunity to question witnesses.

The Claimant is accused primarily of using vile and abusive language to a fellow employe, Machinist R. W. Crain. Direct evidence of this comes from Crain's account to his supervisor shortly after the alleged occurrence and in Crain's testimony at the investigative hearing. The supervisor's judgment of what occurred is substantiated to some degree by his own presence with the two men shortly after the disputed started. Williams did not concede that he used the specific words as Crain had related it.

From the record as a whole, however, the Board finds no basis to question the Carrier's conclusion that the Claimant had violated Rule B in a deliberate and definitive manner in being "quarrelsome" and "otherwise vicious". With this finding, it is unnecessary to explore further the questions of credibility involved in alleged violation of Rule A.

The Carrier's operations are severely hampered by self-provoked dis-harmony among its employes; accusations and name-calling, if tolerated by the Carrier, can lead to far more serious consequences for the employes involved and thus for the Carrier. The Carrier acted against Williams only after a thorough hearing of the facts. No impropriety can be found in the decision to avoid future serious consequences by dismissing the Claimant from service.

A W A R D


Claim denied.

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Award No. 7451  
Docket No. 7447  
2-SLSF-MA-'78

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 24th day of January, 1978.

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