

The Second Division consisted of the regular members and in addition Referee Robert A. Franden when award was rendered.

Parties to Dispute: ( System Federation No. 97, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Electrical Workers)  
(  
( Atchison, Topeka and Santa Fe Railway Company

Dispute: Claim of Employee:

- (1) That the Carrier erred and violated the contractual rights of Mr. James Robert Burke when they discharged him from service as a result of an investigation held on July 31, 1975.
- (2) That said investigation was both illegal and improper.
- (3) That, therefore, he should be returned to service with all rights, privileges and benefits restored, and,
- (4) That he be compensated for all time lost, including overtime. Further, that he be made whole for lost benefits such as vacation rights, health and welfare and insurance benefits, Railroad Retirement and Railroad Unemployment and Sickness Benefits, and/or any other benefits he would have received or earned while he was being held out of service.

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.

The Claimant and Electrician Helper, after a formal investigation, was dismissed from service of Carrier, since he had accumulated sixty (60) demerits under the Brown System on his personal record. Petitioner has contended that the Brown System of Discipline was illegal and improper, thus the discipline should be overturned by this Board. We do not agree. In Second Division Award No. 6382 (Bergman) which involved a nearly identical dispute between the same parties as in the instant case, it was held:

"The Brown System of Discipline by Record goes back to 1923. It was tested and fully discussed in Second Division Award No. 1820. That award found that under the system a Claimant is always aware of his status and at a formal hearing has the opportunity to double check his record. This Division held that dismissal based on this system may be upheld."

Also see Second Division Awards Nos. 1820 (Wenke) and 5987 (Dorsey); First Division Awards Nos. 15 244, 17 021, 17 518, 18 109; Third Division Awards Nos. 10877 and 11548. We will deny the claim.

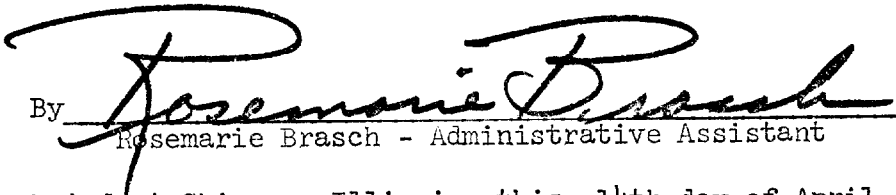
A W A R D

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 14th day of April, 1978.