

The Second Division consisted of the regular members and in addition Referee Walter C. Wallace when award was rendered.

Parties to Dispute: (System Federation No. 105, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Union Pacific Railroad Company

Dispute: Claim of Employees:

- (1) That the Union Pacific Railroad Company, has unjustly dealt with Carman D. C. Carlson, Pocatello, Idaho, when he was removed from service March 22, 1976, on charges of violating Company Rule 700.
- (2) That accordingly the Union Pacific Railroad Company be ordered to reinstate D. C. Carlson to his former position as stated in Rule 35 of the Controlling Agreement dated September 1, 1949, which was changed to Rule 37 in the Revised Agreement dated November 1, 1976, with claim for all time lost plus 6% annual interest for all time lost, all vacation and seniority rights restored, all Health and Welfare benefits and Insurance benefits, all credit due under Railroad Retirement and unemployment insurance, and any other benefits he would have earned while 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 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.

Claimant was cited for investigation for conduct unbecoming an employe in connection with his arrest and charge of grand larceny on December 31, 1975 by the Pocatello police which Carrier alleges was a violation of Rule 700 of the Rules and Instructions of the Motive Power and Machinery Department.

At the investigation Claimant acknowledged that he pled guilty to a lesser charge of petty larceny; that he reimbursed the city \$100.00 plus \$7.50 court cost; that the Court withheld judgment for a period of six (6) months during which time Claimant was on probation; and at the end of that period, the Court, upon a motion, would dismiss the charges and his record would be cleared.

This Board can place no significance on the fact that Claimant's record was cleared by the Court. He acknowledged committing the offense which placed him in violation of the aforementioned Rule 700. Such rules, though not negotiated, have been held to be reasonable and fair where pertaining to such charges as here exists. Second Division Award No. 6824 upheld Carrier's dismissal under circumstances most similar to the case at hand. We find no basis upon which this Board could logically interfere with Carrier's action.

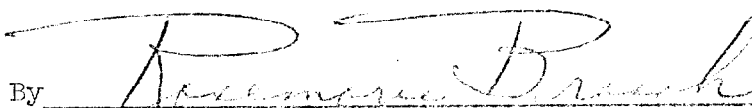
Furthermore, the record supports Carrier's contention that the claim was not handled within time limits prescribed by Article V of the August 21, 1954 National Agreement. That fact also is a bar to overturning Carrier's action.

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 23rd day of June, 1978.