

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

Parties to Dispute: { International Association of Machinists
and Aerospace Workers

Southern Pacific Transportation Company

Dispute: Claim of Employees:

Claim - Compliance with Rule 34, reinstating Machinist E. L. Gray, for him to be paid at the current rate of pay for all time lost, the applicable pro rata rate for all overtime for which he would have been available had he not been improperly removed from service. Reinstated with seniority unimpaired, accredited for the proper vacation qualifying days, with the Carrier making the proper Railroad Retirement contribution for full credit, plus the current prime rate of interest on his lost hours until the dispute is settled.

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.

This case arose out of the Carrier's discharge of the Claimant for being under the influence of alcohol on March 31, 1975. An investigation hearing was held on April 16, 1975 and on April 18, 1975 the Claimant was discharged. The evidence presented at the hearing tended to show that on March 31, 1975, the Claimant was observed in normal condition at approximately 8:30 A.M.

Later in the morning and at about 1:00 P.M., various witnesses observed the Claimant had red eyes, swollen lips and eyelids and was staggering, and slurring his speech. Carrier representatives asked the Claimant to submit to a blood test, but he refused. On February 26, 1975, the Claimant was given a letter to confirm an oral reprimand for being under the influence while at work on February 18, 1975.

This Board has reviewed the entire record in this case. The evidence against this Claimant is substantial. The disciplinary action taken by the Carrier is reasonably related to the proven offense and the Claimant's past record. This Board cannot find any compelling evidence to show that the Carrier acted arbitrarily or capriciously in its determination. The claim, therefore, must be denied.

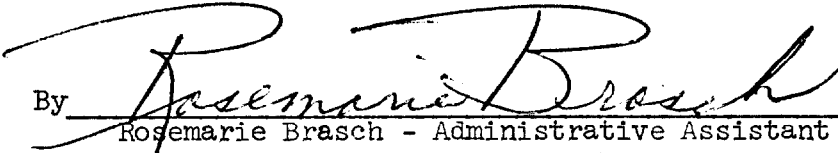
A W A R D

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 12th day of July, 1978.