

The Second Division consisted of the regular members and in addition Referee Arthur T. Van Wart when award was rendered.

Parties to Dispute: (System Federation No. 16, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. That carrier violated the current working agreement when Carman J. R. Saulters was unjustly assessed a fifteen (15) day actual suspension as a result of investigation held on December 9, 1975.
2. That carrier be ordered to remove fifteen (15) day actual suspension from Carman J. R. Saulters' service record, compensate him for all time lost account said unjust discipline, make him whole for all seniority rights and all other rights and privileges he would have received had he not been unjustly assessed fifteen (15) day actual suspension.

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 Carman was cited for investigation in connection with violation of Safety Rule 1002. Investigation was held and as a result thereof Claimant was subsequently suspended for the period December 4 through December 18, 1975. Claim before the Board is for removal of the fifteen (15) day suspension and compensation for lost time plus other benefits.

That part of Safety Rule 1002 here pertinent reads:

"Hair must be so worn as not to interfere with clear vision or otherwise present a safety hazard."

The record discloses that there had been previous discussions between Claimant and local officials regarding the length of his hair. It is undisputed that Claimant's hair style was considered in compliance with Safety Rule 1002 so long as it was kept under his helmet in the performance of his duties. Here the charges were instituted when Car Foreman Preiss walked into the shanty where Claimant had just completed eating his lunch and found Claimant with his helmet off and his hair hanging down in a pony tail.

This Board believes it unreasonable and an abuse of Carrier's discretionary right for it to hold that it was unsafe and in violation of Safety Rule 1002 when Claimant removed his helmet while eating his lunch in the shanty. Consequently in such circumstance, we will sustain the claim.

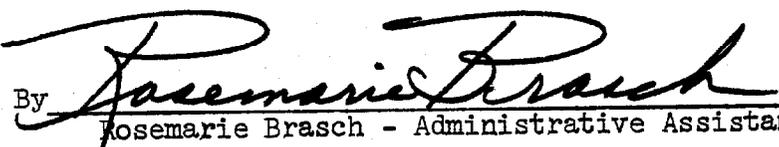
A W A R D

Claim sustained.

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 31st day of July, 1978.