

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute: (Sheet Metal Workers' International
(Association
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(Southern Pacific Transportation Company

Dispute: Claim of Employees:

1. That Sheet Metal Worker Richard A. Throp was unjustly and arbitrarily suspended from the service of the Southern Pacific Transportation Company (Pacific Lines) from October 16, 1975, through and including November 14, 1975.
2. That accordingly, the Carrier be ordered to:
 - A. Compensate Claimant for all wage loss during the period October 16, 1975 through and including November 14, 1975;
 - B. Make Claimant whole for all vacation rights;
 - C. Make payment of hospital and medical insurance, group disability insurance;
 - D. Remit Railroad Retirement contributions;
 - E. Wage loss to include interest at the rate of 6% per annum.

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.

The considerable record of this case leaves no doubt that the Claimant was in violation of Rule 810 in that he was not devoting himself exclusively to his duties, but instead, was either asleep in a company vehicle or otherwise not in a position to fulfill his responsibilities of attending to his assignment as a member of a bypass crew. The testimony of a Carrier

official was sufficiently corroborated by other officials called to observe the Claimant's demeanor.

The Organization has raised as a defense the fact that the hearing for the Claimant was conducted in conjunction with two other employees charged with identical violations of Rule 810. There is nothing to indicate that this procedure denied the Claimant a fair and proper hearing. Finally, the Organization's defense that the Company vehicle was in poor structural and mechanical condition and possibly had permitted partial asphyxiation of the Claimant (since the motor was running at the time of the incident) could not be substantiated on the record. The Carrier's actions were proper under these circumstances.

A W A R D

Claim is 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 15th day of August, 1978.