Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 7673
SECOND DIVISION Docket No. 7452
2-L&N-EW-'78

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

Parties to Dispute: (System Federation No. 91, Railway Employes' Department, A. F. of L. - C. I. O. (Electrical Workers)
(Louisville and Nashville Railroad Company

Dispute: Claim of Employes:

1. That the Louisville and Nashville Railroad Company removed Electrician J. A. Arruebarrena from service without just and sufficient cause and in so doing deprived him of his rights to earnings from October 28, 1975, until such time as he is restored to service.

2. That, accordingly, the Louisville and Nashville Railroad Company be ordered to restore Electrician J. A. Arruebarrena to the Carrier's service with seniority rights unimpaired and compensated for all wage loss commencing with the date of his discharge, October 28, 1975, and continuing thereafter until such time as he restored to 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 discharged for claiming compensation for work not performed between October 1 and October 23, 1975. Claimant was an electrician regularly assigned to work first shift at the Carrier's yards at Gentilly, La. The Carrier, concerned over what might be described as out-of-line overtime costs, conducted an investigation of operations, which included surveillance of the Yard on separate nights during third shift in late October, 1975. It also checked repair records in conjunction with compensation claims. It found that the Claimant had submitted overtime claims for a number of nights (facility did not have an electrician regularly assigned to the third shift) for having been called out to perform work on various locomotives. Carrier also dispatched assigned investigative officials to this facility to interrogate employees -- the third shift

machinist and night hostler -- both of whom might have some involvement in the claimed overtime by the Claimant (there being no supervision of the shop crew on the third shift, these individuals would identify the need for an electrician based upon trouble arising with equipment).

The Carrier established that:

- The Dispatcher was not notified of the need for an electrician on the nights in question -- this would have been proper procedure.

- the work records on the locomotives involved did not substantiate repair work.

- when the machinist and night hostler were initially questioned, they denied having called out the Claimant, except on one occasion.

- eyewitness surveillance by a Carrier official (a trainmaster with no personal involvement at the facility), indicated the grievant's absence at the yard on one night in question, and his having been observed leaving his house around 5:00 a.m. after the house had been under surveillance for an extended period on another -- both nights have been claimed as worked through the shift.

The subsequent alteration of stories by the third shift machinist and night hostler to support the Claimant's having worked, and the introduction of opinions by character witnesses cannot overcome that which is a well-established case of a serious violation of Carrier rules. This Board will follow a long established principle that falsification of time sheets is a serious offense for which dismissal is appropriate -- notwithstanding an indication that the Claimant was a long-service employee who was highly regarded for his industry and skill. The Organization also raises the defense that the hearing was improperly conducted; the record does not support this contention.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 29th day of August, 1978.