

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (System Federation No. 162, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(Southern Pacific Transportation Company

Dispute: Claim of Employees:

1. That subsequent to formal hearing proceedings held on June 20, 1977, the Southern Pacific Transportation Company (Texas and Louisiana Lines) did unjustly discharge from their services, by formal notice dated June 21, 1977, Communications Gang Lineman J. Hargrave on June 24, 1977.
2. That, accordingly, the Southern Pacific Transportation Company (Texas and Louisiana Lines) be ordered to reinstate Communications Gang Lineman J. Hargrave to their services with full seniority rights unimpaired; compensate him for all wage loss commencing with the calendar date June 27, 1977, and for each subsequent work day thereafter until such time as he is returned to his former gang lineman's position; and, reimbursed for all fringe benefits which he has been deprived of while being 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.

After an investigative hearing Claimant was discharged by the Carrier on June 24, 1977, for his actions on May 25, 1977. The Carrier alleged violation of Rules M243 and 801 of the Rules and Regulations for the Maintenance of Way and Structures, which read as follows:

"M243. No motor vehicle is to be set in motion until it is known that the way is clear. Care must be exercised in parking and driving, either on or off the right of way, to avoid damage to equipment or injury to occupants. If there is a possibility of damage to equipment or injury to occupants due to condition of route traveled account presence of concealed obstructions or holes, movement must not be made until investigation indicates the route is safe. It must be known that vehicle will clear all overhead restrictions before passing under same."

"801. Employees will not be retained in the service who are careless of the safety of themselves or others, indifferent to duty, insubordinate, dishonest, immoral, quarrelsome or otherwise vicious, or who conduct themselves in a manner which would subject the railroad to criticism.

Courteous deportment is required of all employees in their dealings with the public, their subordinates and each other. Boisterous, profane or vulgar language is forbidden.

Employees must not enter into altercations, scuffle or wrestle while on duty."

After a discussion with his supervisor, Claimant was directed to drive the truck in which the work gang was being transported to a work site. The Claimant at first refused, but shortly thereafter reconsidered his refusal and took the wheel. Rather than following his supervisor's orders to proceed to the work site, however, he proceeded to drive the truck in another direction. Further orders to the contrary from his supervisor did not deter the Claimant. Upon instructions, he did stop the truck to obtain fuel, but in so doing he was responsible for an accident in which damage was done to the service station's property.

The record demonstrates that Claimant violated the rules cited by the Carrier. The Board finds nothing to cause it to intervene with the Carrier's judgment in discharging the Claimant from its service, following a properly conducted investigative hearing.

A W A R D

Claim denied.

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Award No. 7705
Docket No. 7618
2-SPT-EW-'78

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 25th day of October, 1978.