

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. 1, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Boilermakers)
(
(Indiana Harbor Belt Railroad Company

Dispute: Claim of Employes:

1. That Boilermaker Robert C. Christman was improperly dismissed from service following investigation held on January 31, 1977.
2. That accordingly the Carrier be ordered to reinstate the aforementioned Boilermaker to service with all seniority rights unimpaired, all lost wages, Health and Welfare, Life Insurance, Vacation and Holiday pay now in effect and any additional benefits that may be negotiated as a result thereof until he is 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, an employe with 20 years' service, was suspended on January 26, 1977, when he was observed welding in a manner considered improper and dangerous by representatives of the Carrier. He was then given notice of an investigative hearing, held on January 29, 1977, and on February 14, 1977 he was dismissed from service. The specific charge involved was as follows:

"That on January 26, 1977, you were found in the process of improperly welding on the front pilot plate of IHB locomotive 8868 with your ground cable not on the parent metal as close as possible to the object being welded."

The investigative hearing, though acrimonious in part, nevertheless provided the Claimant and his representative full opportunity to defend his position.

No detailed review of the various instructions issued in reference to welding techniques is required here. It is sufficient to say that the Board will not disturb the Carrier's finding that the Claimant was using an improper procedure in his welding and that, most significantly, he was aware of this through previous instruction, correction, and discipline on the matter of welding techniques.

The Board cannot find, however, that the Carrier acted properly in exacting the penalty of dismissal from the service. Such a measure is not appropriate to the particular offense. The inappropriateness is emphasized by the Carrier's action in suspending the Claimant prior to and pending his investigative hearing. This is not, in the Board's view, one of the proper cases calling for such pre-hearing suspensions.

The Board will therefore sustain the propriety of disciplinary action, but will find that the penalty of dismissal is overly severe. The Claimant will be restored promptly to his position with the period of time served without pay from January 25, 1977, to be an appropriate penalty. Rather than taking this modification as exoneration, the Claimant should understand that this extensive disciplinary suspension must serve as a final warning as to the necessity of following proper procedures in his skilled work and of understanding the serious consequences to life and property which may result in failing to follow such procedures.

A W A R D

Claim sustained, to the extent that the Claimant shall be promptly reinstated to his position with full seniority, but without back pay or other retroactive benefits.

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 29th day of November, 1978.