

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

Parties to Dispute: { International Association of Machinists and
 { Aerospace Workers
 {
 { Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated the controlling Agreement, particularly Rule 32, when they unjustly suspended Machinist E. P. Sparr from service for 30 days effective 3:00 a.m., July 29, 1976 until 3:00 a.m., August 28, 1976, for allegedly failing to conduct his duties as a Machinist Inspector, failing to return to his assigned duties when instructed to do so and responding in an angry and insubordinate manner to General Foreman J. W. Weber on July 29, 1976.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Machinist E. P. Sparr in the amount of eight (8) hours pay at a Machinist's pro rata rate of pay for the 30 days he was suspended effective 3:00 a.m., July 29, 1976 until 3:00 a.m., August 28, 1976. In addition, he shall receive all benefits accruing to any other employee in active service, including vacation rights and seniority unimpaired.
3. Claim is also made for Machinist E. P. Sparr's actual loss of payment of insurance on his dependents, and hospital benefits for himself, and that he be made whole for pension benefits, including Railroad Retirement and Unemployment Insurance.
4. In addition to the money claimed herein, the Carrier shall pay Machinist E. P. Sparr an additional sum of 6% per annum, compounded annually on the anniversary date of said claim, in addition to any other wages earned elsewhere in order that he be made whole.

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 assessed thirty days actual suspension "for your failure to conduct your duties as a Machinist Inspector and your failure to return to your assigned duties when instructed to do so and responding in an angry and insubordinate manner" to his General Foreman.

Claimant was suspended from duty at the time of the incident on July 29, 1976, and, after an investigative hearing on the matter, his suspension continued to run until completion of the thirty days on August 28, 1976.

The Organization protests both the conduct of the hearing and the nature of the charges made against the Claimant by the Carrier. Upon examination of the record, the Board finds that the hearing afforded the Claimant full opportunity to defend himself against the charges and that the charges themselves were sufficiently specific so that an ample defense could be prepared.


Testimony of the General Foreman and Clerk who was present, as well as some of the testimony of witnesses produced by the Claimant, convince the Board that the Claimant acted in an abusive and non-responsive manner to the General Foreman and that, rather than following instructions, he continued to offer verbal abuse to his superior. Such conduct, if permitted to go unnoticed and unchecked, would gravely affect the supervisor-employee relationship. The penalty levied is not excessive, and the Board finds no reason to disturb the Carrier's disciplinary action against the Claimant.

A W A R D

Claim 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 9th day of May, 1979.