

The Second Division consisted of the regular members and in addition Referee Arthur T. Van Wart when award was rendered.

Parties to Dispute: (System Federation No. 99, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(
(Illinois Central Gulf Railroad Company

Dispute: Claim of Employees:

1. That the Illinois Central Gulf Railroad unjustly suspended Electrician Albert Pullen at Woodcrest Shop on March 12, 1975 for 30 days for allegedly refusing to comply with instructions to work as Motor Packer in "F" Building on March 9, 1975 at 3:00 p.m.
2. That Electrician Albert Pullen be compensated for all wages, benefits, vacation and all other rights, with his record cleared.

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 employees 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 Electrician, was employed as Motor Packer at Carrier's Woodcrest Shop 3:00 PM - 11:00 PM. He reported for work on March 9, 1975 a few minutes after 3:00 PM. He indicated, at that time, to the Mechanical Foreman that he needed a flashlight which was provided him. Thereafter, Claimant told the Mechanical Foreman that he did not have any rubber gloves. He was also given a pair of heavy, black gloves. Claimant Electrician then stated that he would go to his car to see if he could find a lighter weight pair of gloves. Claimant placed his tools down and then went out to his car. Upon his return Claimant was unable to find his tools. He became upset. Claimant kept insisting that the Foreman find his misplaced tools. Finally, said Foreman called the General Locomotive Foreman and requested that he come to "F" Building. Claimant, in the interim, had left the Mechanical Foreman's office. He was requested to return thereto and the General Locomotive Foreman requested Claimant to explain what the problem was. Claimant kept insisting that he would do no work until they had located his tools.

The General Locomotive Foreman informed Claimant that he would see that he was provided with tools. He so instructed the Mechanical Foreman to call the Electrical Foreman and have him bring him some motor packing tools to "F" Building. Then the General Locomotive Foreman told Claimant that he would get the tools needed, that he should go out and do his job and stop harrassing the Foreman.

However, Claimant went out to the time clock, clocked out and then returned to the Foreman's office where he informed the two Carrier Representatives that he was going home and they could find themselves another Motor Packer. Claimant was told that he would have to see Mr. Gorman, the Assistant Shop Superintendent before he could return to work. Shortly thereafter, a set of tools were brought for Claimant's use, but he had already clocked out and left the property.

Subsequently, a notice was sent to Claimant informing that an investigation was to be held March 19, 1975, to determine

"His responsibility, if any, when (he) refused to comply with your supervisor's instructions to work as motor packer in 'F' Building on Sunday, March 9, 1975 at 3:00 PM."

As a result of that investigation Carrier concluded that Claimant was guilty as charged. His personal record was then reviewed, which reflected that he had previously been suspended for a period of sixty (60) days for insubordination in refusing to work an assignment in 1971. Carrier assessed a thirty (30) day actual suspension for the incident then under investigation. It is that decision which is now appealed to this Board.

Claimant was accorded a fair hearing. He was properly notified as to the purpose thereof. He was accorded the right of representation and to have witnesses. Claimant was fairly and capably represented. He participated in the investigation. Claimant exercised his right of appeal. There was sufficient evidence adduced at the March 19, 1975 investigation to support Carrier's conclusion as to Claimant's culpability. Claimant attempted to insist therein, that he would have worked had he been provided with tools to replace those which had been mislaid. However, Claimant had already left the property before the tools were brought down to replace his lost tools, which, incidentally, Claimant later recovered. Claimant also alleged that the reason he had clocked out was that he "was upset - had a nervous stomach - and (he) just went home". Yet, nothing appears in the record which indicated that Claimant had previously told anyone that he was feeling ill on the day in question. Despite whatever else might have been a contributory cause, we are impelled to conclude that Claimant here suffers from the result of his own actions. It is clear that Claimant had refused to work his job as a Motor Packer on March 9, 1975.

Form 1
Page 3

Award No. 7952
Docket No. 7651
2-ICG-EW-'79

The Board finds that the discipline assessed was reasonable. This is particularly so when cognizance is given the fact that Claimant had previously been suspended for insubordination. In the instant case Claimant, on the date in question was again guilty of taking matters into his own hands. In such context the discipline is held to be very reasonable. This Claim will be denied.

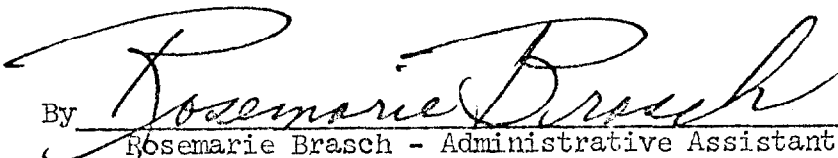
A W A R D

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 13th day of June, 1979.