

The Second Division consisted of the regular members and in addition Referee Abraham Weiss when award was rendered.

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

Dispute: Claim of Employees:

1. That Laborer C. C. Craft was unjustly disciplined from June 20, 1977 through August 18, 1977.
2. That accordingly, the Illinois Central Gulf Railroad be ordered to compensate Laborer C. C. Craft for all time lost during the period from June 20, 1977 through August 18, 1977 and that all benefits for that period be restored.

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, a Stationary Engineer, was disciplined for loafing while on duty at approximately 12:45 AM on June 20, 1977. His scheduled tour of duty started at 11:00 PM on June 19. Claimant was found guilty of the charge after a formal investigation and assessed a 60-day disciplinary suspension.

Claimant testified at the hearing that he had been on duty since 2:15 PM on June 19; that at about 10:00 PM he suffered from an upset stomach and experienced nausea; and that he laid down to get some relief.

Master Mechanic Stringer testified that in the course of his routine inspection he saw no lights on in the Power House, tried to open the door into the boiler room and found it locked; tried another door to the Power House, which was also locked; called for the Roundhouse Foreman and both tried unsuccessfully to gain entry until they found a metal vertical

rolling door open about 4 inches and raised it; found the door leading to the boiler room locked with a piece of wire through the latch; and upon entering the boiler room found Claimant, barefoot, dressed in pajama-type bottoms and tank shirt standing between the two boilers, a mattress, blanket and two pillows in back of the boiler, and Claimant's shoes, watch, and a flashlight on the floor next to the mattress. Claimant acknowledged ownership of the mattress and other items.

Mr. Stringer testified that there was insufficient light in the Boiler House for the Claimant to perform his duties properly, there being only one light on over the work bench.

Mr. Stringer informed Claimant that it was against company rules to sleep while on duty and placed Claimant out of service pending a formal investigation.

Mr. Stringer also testified that Claimant stated at the time he knew he had done wrong and asked whether he could do anything to correct it.

Finally, Mr. Stringer stated that it was not until the next day, when Claimant came to his office, that Claimant stated he was not feeling well the night before.

Mr. Stringer's testimony was confirmed by the Roundhouse Foreman.

We have carefully reviewed the record and the transcript of the investigation and conclude that the evidence supports a finding of guilt. There is no doubt that Claimant was, in fact, sleeping on duty on the night in question. No evidence has been presented to the contrary. There is no basis for challenging the credibility of Carrier's witnesses. Claimant did not state he was ill at the time he was found by the two supervisors nor did he deny at any time that he had been sleeping. Claimant stated at the time that he knew he had done wrong. The doors to the Power House were either wired or bolted from the inside to prevent entry. All Power House lights were off, except the one over the work bench.

The evidence presented supports the charge and the discipline assessed was reasonable and not arbitrary or capricious. We have no cause to substitute our judgment for the company's. Accordingly, we will uphold the company's discipline and deny the claim.

A W A R D

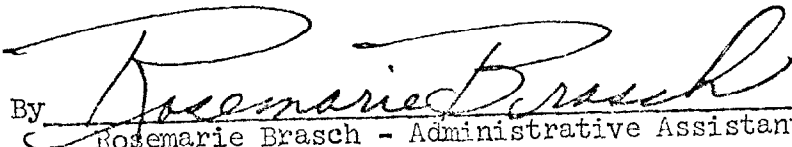
Claim denied.

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Award No. 8003
Docket No. 7934
2-ICG-FO-'79

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 18th day of July, 1979.