

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 8018  
Docket No. 7524  
2-BNI-EW-'79

The Second Division consisted of the regular members and in addition Referee Ralph W. Yarborough when award was rendered.

Parties to Dispute:     { System Federation No. 7, Railway Employees'  
                             { Department, A. F. of L.     -     C. I. O.  
                             { (Electrical Workers)  
                             {  
                             { Burlington Northern Inc.

Dispute: Claim of Employees:

1. That in violation of the current agreement Shop Electrician J. T. Davey, King Street Coach Yard, Seattle, Washington, was unjustly suspended for ten (10) days from the service of the Carrier on May 29, 1976.
2. That accordingly the Carrier be ordered to compensate Mr. Davey for all time lost and the record of suspension be removed from his personal record.

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.

Electrician James T. Davey, Claimant, is regularly employed by Carrier Burlington Northern Inc., at its Coach Yard facility at Seattle, Washington as an Electrician, Upgraded. He reported for work at 3 P.M., on April 13, 1976, did some work, then went to the locker room where he was engaged in conversation with Electrician Segalla, when Assistant Foreman of Cars Goddard and Hoey entered the room at 3:40 P.M., and Foreman Goddard issued orders to Claimant Davey to go work on cars assisting Electrician De Long who was then working alone. Claimant Davey contended that the orders were contradictory, confusing and unsafe. A violent quarrel ensued between Claimant Davey and Foreman Goddard. Claimant Davey did not obey the orders issued, but turned in his time card and went home.

Charges were filed against Claimant Davey and after a hearing with Davey properly notified and represented, Claimant was assessed a ten day actual suspension on a charge of "Failure to comply with instructions and insubordination," on April 13, 1976.

Upon a complete and careful review of this 154 page record, there is no doubt that Claimant not only violently objected to the orders given by his superior officer, but declined to obey them, turned in his time card, and went home. If Claimant thought the orders unwise and conflicting, his remedy was to comply as best he could, and file a grievance. Claimant could not take over the Foreman's job on the spot, and decide that the orders were unworkable, and turn in his time card and go home. It would take only a few instances like that on one line to temporarily paralyze a railroad. The voluminous record, with numerous witnesses testifying, including the Claimant and the Foreman, clearly substantiates the fact that Claimant was given specific instructions by his Foreman, but, for his own reasons, Claimant did not comply with them.

We find no adequate basis in the record for concluding that Claimant was not guilty of the charges. He was given an adequate and full hearing, and there are insufficient grounds for this Board to set aside the Carrier's assessment of discipline.

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  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 1st day of August, 1979.