

The Second Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

Parties to Dispute: { System Federation No. 6, Railway Employees'
Department, A. F. of L. - C. I. O.
(Carmen)
{ Elgin, Joliet and Eastern Railway Company

Dispute: Claim of Employees:

1. That the Elgin, Joliet & Eastern Railway Company, hereinafter referred to as the Carrier, violated Agreement Rules 1, 22, 35, 149 and 150 as well as their own Bulletin Order No. 10, on February 18, 1977 when they refused to allow Carmen Douglas Rowley, hereinafter referred to as Claimant, to commence work after reporting to work late on this date.
2. That the Carrier be ordered to compensate Claimant for a total of fifteen hours and fifty-eight minutes (15 hrs., 58 minutes) pay at the pro rata rate for these violations--7 hours and fifty-seven minutes for the time lost on February 18, 1977 and 8 hours holiday pay for February 21, 1977 which Claimant lost because he was not allowed to work on February 18th, his last regular working day before the Washington's Birthday Holiday.

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 herein was assigned, as a Temporary Carman, to Carrier's East Joliet, Illinois, Steel Car Shop. His regular assignment was from Monday through Friday, 8:00 A.M. to 4:30 P.M. On Friday, February 18, 1978 Claimant drove into Carrier's parking lot at 8:00 A.M. and reported to his assigned safety meeting at 8:02 A.M. He told his foreman that he was late due to an early morning snowfall and slippery road conditions. His foreman told Claimant that the work for the day had been rearranged due to his absence and he was not needed that day. Because Claimant was not permitted to work on February 18th, the last working day before Washington's Birthday holiday, he did not qualify for holiday pay. The record indicates that normally the work day starts with a five minute safety meeting and Petitioner claims that work assignments are made thereafter.


The issue in this dispute is similar in most respects to that considered by this Board in Award 8045. At the outset it must be made clear that we certainly concur in and adhere to the principles outlined in Award 8045. While we recognize that Carrier has had a serious attendance problem at this facility and obviously embarked on a major campaign to correct the intolerable situation, reasonable distinctions still must be made. In this dispute it is clear that we are dealing with a two minute tardiness. In that context it is difficult to accept the fact that an irrevocable rearrangement of the work had taken place necessitating Claimant being sent home for the day. While poor work habits including habitual tardiness, should not be tolerated by Carrier, whether by Claimant or other employees, some balance and reason must be used in the application of the Carrier's policy. While Claimant should have been admonished for his tardiness, he should not have been sent home, in our judgment. The record shows, irrefutably, that it is Carrier's policy to hold a safety meeting for the first five minutes of the tour of duty, after which work assignments are made. Also, Carrier's Chief Mechanical Officer Seipler posted a bulletin that says there is a period of five minutes after the start of the tour of duty in which to turn in service cards. Here, Carrier's action in sending Claimant home was before any work assignments could have been made and also, inconsistent with the directive of the Chief Mechanical Officer's bulletin. Accordingly, we will the claim.

A W A R D

Claim sustained.

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 15th day of August, 1979.