

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

Parties to Dispute: { System Federation No. 1, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Carmen)
 { Consolidated Rail Corporation

Dispute: Claim of Employes:

- (a) That the Carrier violated the controlling agreement when on August 11, 1977, it assessed 30 days actual discipline to Coach Cleaner William A. Torres, as a result of a hearing and investigation conducted August 2, 1977.
- (b) That accordingly, the Carrier be ordered to reimburse the Claimant for the equivalent amount of compensation he would have earned during the 30 days of his suspension, as well as any other compensation the Claimant would have earned during the 30 day period he served as discipline days lost to be forwarded towards his vacation, remove all record of discipline from his service record, and Claimant's service record be restored unimpaired, plus 6% interest compounded on a daily basis, plus any overtime he would have earned during the period he was off.

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, William A. Torres, was notified by letter dated July 28, 1977, to be present on August 2 for a hearing and investigation concerning alleged violations of numerous company Rules. The most pertinent charge reads: "... On 27 July, 1977, at Wayne Junction Electric Car Shop ... you were found asleep in car MU9014, at 2:45 P.M. ..."

Following an appropriately conducted investigation, as scheduled, the penalty herein complained of was assessed. The carrier's disciplinary action relies upon Safety Rules for the Guidance of All Employees. The most pertinent to this discussion is Rule 4, which reads in part:

"Undivided attention to duty is essential to safety and efficiency. Sleeping, assuming an attitude of sleeping, reading of newspapers, periodicals, or any other reading matter not pertaining to railroad operation, playing cards, or other games while on duty, is prohibited."

The claimant admitted in a candid and straightforward fashion that he had, in fact, fallen asleep as charged. It is clear that the rule was violated and some form of disciplinary action was appropriate. However, based on the entire record including a good past record and the candid cooperation by Mr. Torres, the Board finds that a fifteen (15) day actual suspension is more appropriate.

In so finding we admonish the grievant that Safety Rules are written for the benefit of the employees as well as management and any transgression is a serious matter. Any further violation of the Rules could result in more stringent application of discipline.

A W A R D

The thirty (30) day actual suspension shall be reduced to a fifteen (15) day actual suspension.

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 16th day of April, 1980.