

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

Parties to Dispute: { System Federation No. 16, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Firemen & Oilers)
 { Detroit, Toledo and Ironton Railroad Company

Dispute: Claim of Employees:

1. That under the current agreement Michael M. Stevenson, Laborer was unjustly forced to resign from the service of the Carrier effective October 5, 1977.
2. That accordingly the Carrier be ordered to reinstate Michael M. Stevenson with seniority unimpaired, made whole for all wages, vacation rights, health and welfare benefits, and all other benefits of the agreement be protected from October 5, 1977, date he left the service of the Carrier.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Michael M. Stevenson, the claimant, a laborer in carrier's Flat Rock, Michigan, facility, resigned from service after an incident that resulted in a derailed box car. The organization alleges that the resignation occurred under duress, while the claimant was subjected to harrassment, and that he did not have the advantage of union representation. It requests the resignation be declared invalid and that the claimant be put back to work with all benefits lost restored to him.

Carrier denies the allegation of the organization and further states that the claimant never requested union representation. Carrier asserts that the claim is without merit and should be denied. A review of the record before this Board reveals that the carrier's position in this dispute must be upheld. The record shows that the claimant was involved in the derailment and that he was required to report to the general car foreman to discuss the incident. The general car foreman explained that the claimant could have a hearing and discussed the possible consequences of that hearing. He offered him the option of resigning. The record does not show, however, that the general foreman in any

way attempted to deceive the claimant, threatened him, or was not completely truthful when outlining the options open to him.

This Board has consistently held in numerous awards that the mere mention of an investigation and of the possibility of disciplinary action is insufficient grounds to warrant the setting aside of an employee's voluntary resignation from service.

In cases such as the one before us in this instance, for the resignation to be set aside, the claimant must prove that he was coerced into resigning. The organization has not carried that burden. Having the option to resign is beneficial to both the employee and carrier. The employee leaves the employ of the carrier without negative marks on his record that might jeopardize his future employment and the employer is freed from the burden of having to prefer charges, hold a hearing, and mete out discipline. This is a time-consuming process for both parties.

The claimant obviously knew the advantages of resigning. Absent any facts in this record to support the allegation the claimant was under duress and subject to harrassment, this Board must deny the claim..

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 16th day of April, 1980.