

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute: (System Federation No. 114, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Southern Pacific Transportation Company

Dispute: Claim of Employee:

1. That under the current agreement Carman, R. M. Estrada, hereinafter referred to as the Claimant, was unjustly deprived of his service rights and compensation when he was improperly withheld from service from February 9, 1977, after twenty-one (21) years of service with the Carrier.
2. That, accordingly, the Southern Pacific Transportation Company be ordered to reinstate Carman, R. M. Estrada, to service at Sacramento, California, with seniority rights unimpaired. Made whole for all vacation rights. Made whole for pension benefits, including Railroad Retirement and Unemployment Insurance. Made whole for any other benefits he would have earned during the time he was held out of service.

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.

The record of this case clearly shows that the Claimant was aware of proper safety procedures in handling and lifting heavy objects. Yet, on January 10, 1977, he failed to use such knowledge and, as a result, sustained an injury to his back. Rule 80I states that "Employees will not be retained in the service who are careless of the safety of themselves;" Rule M states that "Carelessness by employees will not be condoned and they must exercise care to avoid injury to themselves...". Impatience with performance of others is not a rational basis to ignore safe practices as is suggested by the record. The Claimant was a long service employee who certainly knew such practices. We shall order his return to work, admonishing him to utilize proper safety procedures in the future. No back pay is ordered.

A W A R D

Claim is sustained in part, as set forth in the Opinion.

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 4th day of June, 1980.