

The Second Division consisted of the regular members and in addition Referee John J. Mikrut, Jr. when award was rendered.

Parties to Dispute: { Brotherhood of Railway Carmen of the United States and Canada
{ Southern Pacific Transportation Company

Dispute: Claim of Employes:

- 1. That the Southern Pacific Transportation Company (Texas and Louisiana Lines) violated the Letter of Understanding of September 25, 1967, when they arbitrarily docked Carman J. R. Saunders' pay in the amount of one hour and fifteen minutes (1'15") on January 30, 1978, because he was unavoidably detained from work account all yard entrances blocked by a cut of cars.
- 2. That accordingly, the Southern Pacific Transportation Company (Texas and Louisiana Lines) be ordered to compensate Carman J. R. Saunders in the amount of one hour and fifteen minutes (1'15") at the pro rata rate January 30, 1978.

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 was docked pay for amount equal to one hour and fifteen minutes because he was late in reporting back to work following his lunch break on January 30, 1978.

Claimant contends that he was unavoidably delayed in reporting because all yard entrances were blocked by a cut of cars. Claimant's Organization argues that Claimant's lateness was caused through no fault of his own, and furthermore, Carrier's denial of pay is contrary to standing practice of many years as well as parties' Letter of Understanding of September 25, 1967, which specified that:

"...employees reporting late to work because of being delayed by train movements and/or blocked passageways, would not be reprimanded nor suffer loss in compensation."

Organization further contends that nothing in parties' agreement permits such a deduction from an employee's pay, and also that no concrete proof has been offered by Carrier, during the course of the handling of this case, to substantiate Carrier's claim that the September 25, 1967 Letter of Understanding was abrogated.

Carrier argues that said Letter of Understanding, which was made between Carrier's former Superintendent of shops and Organization's local chairman, is not binding since only those agreements which are made between Organization's General Chairman and Carrier's Manager of Labor Relations, in accordance with Rule 140, as well as the provisions of Railway Labor Act, Section 2, Sixth, are binding upon the parties. Also, Carrier argues that said Letter of Understanding was subsequently abrogated several years after its adoption when Carrier's present Plant Manager and the Organization's local committee agreed that:

"...if a refrigerator and food warmer were provided employees and a catering service was allowed to enter company property during lunch period, employees who leave the property on their lunch period would be docked if they did not return to their assignment at 12 Noon."

Upon a careful evaluation of the complete record in this instant case, it is clear to this Board that, though, perhaps, an argument of significance, Carrier's argument that the execution of the parties' Letter of Understanding exceeded the Superintendent of Shops' and local chairman's authority was not included as a part of Carrier's argument which was presented on the property, and, therefore, cannot be considered by the Board at this point.

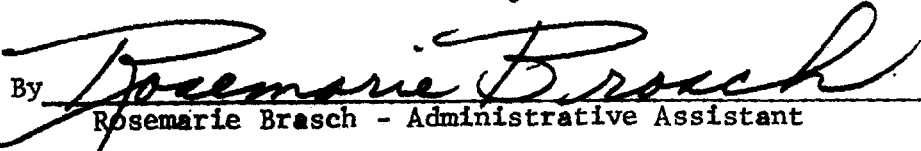
With similar dispatch, Carrier's argument concerning the abrogation of the September 25, 1967 Letter of Understanding cannot be upheld since evidence of such abrogation is completely absent from the record. In this context, it is indeed incredulous for this Board to believe that Carrier, having initially executed said Letter with such exactness and formality, would, thereafter, attempt to withdraw from the confines of this obligation in as simplistic a manner as Carrier now describes.

A W A R D

Claim is 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 1st day of October, 1980.