

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

Parties to Dispute: (Brotherhood Railway Carmen of the United
(States and Canada
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(Washington Terminal Company

Dispute: Claim of Employees:

1. That the Washington Terminal Company violated rule 29 of the controlling agreement when Steven Princeler was unjustly suspended from the service on March 24, 1978 then was subsequently dismissed by letter from Master Mechanic E. D. Laird on May 4, 1978.
2. That accordingly the Washington Terminal Company be ordered to restore Claimant to service with seniority and vacation rights unimpaired and compensated for all time lost.

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.

The evidence of the hearing reveals that an altercation took place; wherein claimant and supervisor engaged in fighting which resulted in physical damage to both parties. While the claimant introduced prior harassment on Farrier's part, the fact remains that claimant, Mr. Princeler struck the supervisor without sufficient provocation. It is imperative for the safety of all concerned that rapport and order be maintained at all times by all parties. The claimant chose not to use the grievance procedure to report the alleged prior harassment by supervisor whereas he should have.

The methodology of the supervisor in directing and managing his subordinate employees need be held up for investigation to determine responsibility and provocation. His method of supervision of the claimant is questionable. However, sufficient provocation did not exist to warrant the physical contact that took place.

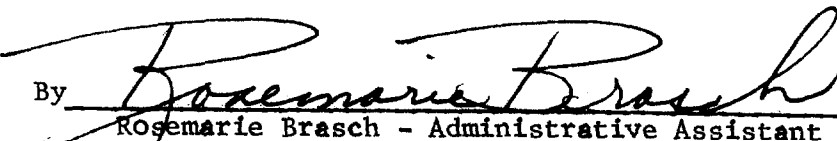
A W A R D

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 29th day of October, 1980.