

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

Parties to Dispute: { International Brotherhood of Electrical Workers  
{ St. Louis Southwestern Railway Company

Dispute: Claim of Employees:

1. That on March 6 and 7, 1979 Mr. H. R. Vaughn, Assistant to General Superintendent of the Communications for the St. Louis Southwestern Railway Company, did show disregard for the safety of Radio Equipment Installers, L. E. Sykes and Mr. H. M. Hoover when Mr. Vaughn ordered them to climb one hundred (100) foot pole at the Cotton Belt Shops, Pine Bluff, Arkansas.
2. Accordingly the St. Louis Southwestern Railway Company be ordered to take some disciplinary action against Mr. Vaughn account of his actions on March 6 and 7, 1979.

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 were given due notice of hearing thereon.

There are two disagreements in the docket and both were considered by the Board.

First, there is the claim on behalf of the grievants that they were unjustly assessed forty-five demerits as a result of an investigation conducted on March 15, 1979 and, accordingly, the Carrier should be ordered to clear their personal records of such charges.

Second, the Organization poses a counter claim that the Carrier showed disregard for the safety of Claimants when the order to climb a pole was issued which led to the aforescribed demands. Accordingly, it asks that the Carrier be ordered to take disciplinary action against the Assistant Superintendent who issued the order.

With respect to the first claim, the record reveals that on March 7, 1979 the Assistant Superintendent of Communications asked the grievants to climb a pole some seventy-five to one hundred feet in height for the purpose of correcting antenna trouble. They responded that they would not climb the pole under the existing conditions which they described as lack of qualifications, proper training, and

necessary safety equipment. The Superintendent arranged for the necessary safety harness and an instructor to explain its use in the event Claimants did not understand its function. Further, a ladder was provided and an electrician arranged to take the power off the pole. Claimants did not go to the pole to ascertain the effectiveness of the proposed aids, but chose to maintain their position that under the circumstances they would not climb. They were charged with insubordination and following a properly conducted investigation on March 15, 1979 the penalty herein complained of was assessed.

The record discloses that by their own testimony both grievants had climbed numerous towers for similar purposes but somehow they determined that the pole under consideration was more hazardous and required additional training. There is some evidence in the record that the pole in question is less hazardous than many of the towers. Additionally, one of the grievants testified that he had previously climbed the pole under consideration.

In view of the foregoing and the entire record including the Carrier's offer of assistance and instruction this Board is forced to conclude that the hazard accompanying the operation in question was no greater, and perhaps somewhat less, than the normal risk which accompanied their day-to-day work assignments. The Organization seeks to avoid the charge by pointing out that the grievants did not refuse to do the work but simply pointed out their view of unsafe conditions under which they would not work. The language employed does not obfuscate the result. While safety is of paramount importance to all concerned, the grievants did not possess the right to make that determination by themselves. As determined by the record, their judgment was in error. Some form of disciplinary action was warranted. We find that the demerits do not constitute harsh and unjust penalty.

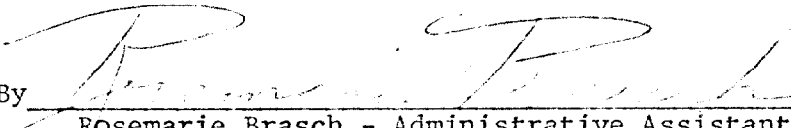
In view of the foregoing we need not burden this award with a discussion of the Organization's counter contention.

A W A R D

The claim for removal of demerits is denied. The Organization's counter argument is dismissed for lack of justiciable issue.

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 28th day of January, 1981.