

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

Parties to Dispute: (International Brotherhood of Firemen & Oilers
(Western Pacific Railroad Company

Dispute: Claim of Employees:

1. That under the current agreement Firemen and Oiler, Velma M. Smith, was unjustly suspended from the service of the Carrier, from August 17, 1978 through September 5, 1978.
2. That accordingly, the Carrier be order to:

To compensate the aforesaid employee for all time lost from August 17, 1978 through September 5, 1978, at the pro-rata rate of the position she held at the time she was suspended.

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.

Claimant, V. M. Smith, a laborer in carrier's employ at Stockton, California, was charged with insubordination. She was alleged to have refused a direct order to clean the rest room facilities for the Engineers' Register Room. She was removed from service pending an investigation into the matter. A hearing was held and at its conclusion, claimant was assessed a discipline of time held out of service. That equals two weeks' suspension.

The organization argued that claimant's action of refusing to clean the Engineers' rest room was not an act of insubordination, but only a temporary refusal to protest the fact that she had to clean a male rest room with no protection from men coming in and using the facility while she was cleaning.

Carrier argued that she refused a direct order. That is insubordination and cannot go unpunished.

It is the opinion of this board that carrier acted properly in this situation. A two-week suspension was not inappropriate. Claimant was obviously disturbed because she was directed not to use the Engineers' rest room, but rather to use a rest room in another part of the facility set aside for women. The record reveals that the women's rest room was not in very good shape. Apparently, claimant did not like to use it.

This board is mindful of the problem a female employee may have working in an all-male setting. Carrier should also be sensitive to such problems. But this board cannot condone insubordination on the part of employees who wish to draw the attention of authorities to certain problems. To allow such action, regardless of the merits of the cause, would be to encourage industrial chaos.

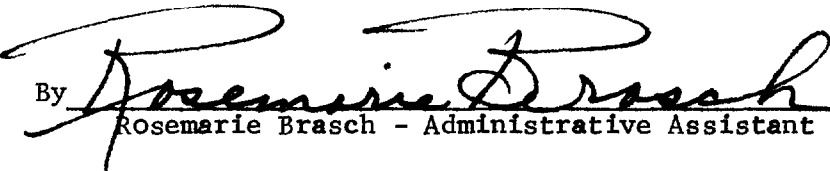
A W A R D

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 25th day of February, 1981.