

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

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

Dispute: Claim of Employees:

1. That the Washington Terminal Company violated the controlling agreement when they unjustly assessed Car Cleaners B. T. Whitmyer and D. C. Green a fifteen (15) and a seven (7) calendar day suspension as a result of a joint investigation held on March 20, 1979.
2. That accordingly the Washington Terminal Company be ordered to reimburse Mr. B. T. Whitmyer and Mr. D. C. Green for net wage loss and expunge this charge from their service records caused by this unjust and unwarranted discipline assessed them.

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.

An investigation was held on March 20, 1979 at the Washington Terminal Station, Union Station, Washington, D. C. to determine whether Claimants were insubordinate and in violation of General Rule N, when they proceeded to the lower level of the station and rode Train 181 despite contrary instructions from the gang leader. Based upon the investigative record, Carrier concluded that they were guilty as charged and assessed a fifteen (15) calendar day suspension against car cleaner Whitmyer, effective April 10, 1979, and a seven (7) calendar day suspension against car cleaner Green, effective, April 21, 1979. These suspensions were appealed.

In defense of their positions, the Organization contends that they were innocent of the charge of insubordination and asserts that the gang leader was venting her frustrations, when she charged them with this infraction. It avers that she did not know where she had assigned Claimants to work or what she wanted them to do.

Carrier contends that the record firmly establishes that the Claimants were insubordinate when they failed to remain in 19 Track for further assignment and instead rode Train 181 to the coach yard, notwithstanding, the gang leader's explicit instruction not to ride Train 181. It argues that the gang leader's testimony convincingly demonstrates that they were insubordinate and the suspensions imposed were not unreasonable, when their disciplinary records are considered.

In our review of this case, we agree with Carrier's position. The investigative transcript clearly shows that Claimants were directed to remain in 19 Track for further instructions and unequivocally told not to ride Train 181 to the coach yard. There were not extenuating circumstances such as an unforeseen emergency that would warrant independent action on their part or ambiguity in the gang leader's directive that would indicate an uncertain order. To the contrary, they were plainly advised not to ride Train 181 to the coach yard. By disregarding this supervisory directive, they committed a serious infraction and we are constrained by this finding to sustain Carrier's disciplinary decisions. Their actions were plainly insubordinative and the punishment imposed was certainly not unreasonable, when their prior disciplinary records are judicially weighed.

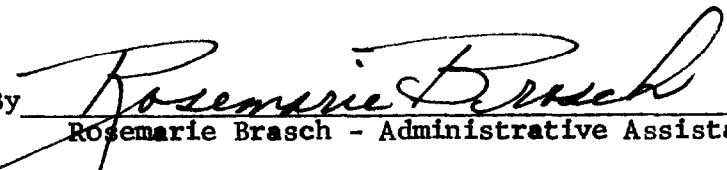
We will deny the claim.

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 28th day of October, 1981.