

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

Parties to Dispute: { International Association of Machinists and
Aerospace Workers
{ Southern Pacific Transportation Company

Dispute: Claim of Employes:

1. That Machinist E. B. Lewis was unjustly dealt with by the Southern Pacific Transportation Company (T&L) as follows:
 - (A) "... Suspended from service for violation of Rule 801 of the Rules and Regulations of the Southern Pacific Transportation Company..." (letter dated October 4, 1978, 7:30 PM).
 - (B) Reinstated November 16, 1978, following investigation held November 2, 1978, without reimbursement for lost time.
2. That, accordingly, Claimant be reimbursed at the pro rata rate of pay from the time he was removed from the service of the Carrier by letter October 4, 1978, at 7:30 PM for his regular assignment until November 16, 1978, at which time he was restored to service, all overtime for which he would have been available at the punitive rate of pay had he not been removed from service, plus six percent (6%) per annum interest.

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.

On October 4, 1978, the Claimant was removed from service concerning an asserted insubordination, in violation of a cited rule. An investigation was scheduled for October 13, 1978, but due to the hospitalization of the Employee it was rescheduled for November 2 and subsequently, the Employee was found guilty. He was ordered reinstated on November 16, 1978. No monetary reimbursement was made for the period of the suspension.

At the investigation, evidence was presented to show that the Claimant was instructed to purge a "lube oil system and fill the unit with oil". However, it

is contended that the Claimant refused to cooperate with others in an effort to accomplish the task.

The Employee questions that he was given an order concerning oil, oil containers and another employee, or that he was insubordinate as charged. He has also raised a question as to his responsibility.

A lengthy recitation of the various items of testimony is not deemed necessary. Our function is not to substitute our judgment for that of Carrier, but rather to assure that there is sufficient evidence of record upon which a finding of guilty can be based. We feel that there is evidence to support the conclusion that this Employee received and understood certain instructions and that he did not comply.

We do question however, the extent of the disciplinary action. Accordingly, we will only sustain a suspension of 15 work days.

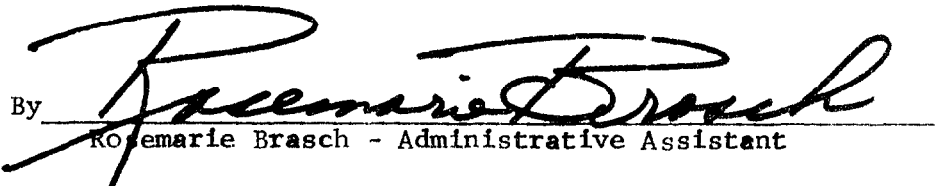
A W A R D

Claim sustained to the extent stated in the Findings above.

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 27th day of January, 1982.