

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers
{ National Railroad Passenger Corporation

Dispute: Claim of Employees:

1. That the action of the National Railroad Passenger Corporation (AMTRAK), in assessing Electrician Robert Durniak five (5) days suspension was arbitrary, discriminatory and unjust.
2. That accordingly the National Railroad Passenger Corporation (AMTRAK) be ordered compensate Electrician Robert Durniak for all wages lost during the time of the suspension.

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, with seniority from July 16, 1976, was employed as an electrician at Carrier's Sunnyside Yard facility, Long Island City, New York, with assigned hours 11:59 p.m. to 7:59 a.m.

On August 1, 1979, he was notified to appear for an investigation on the charge:

"In violation of Rule Y in Amtrak Rules of Conduct, which read in part: Rule Y: 'Employees must obey instructions from their supervisors in matters pertaining to their perspective (sic) branch of service.' Employee was instructed on July 30, 1979, at 7:00 A.M. to remove 220 volt charging cables at 7:30 A.M. from cars 8027 & 5655 on train 81. Employee refused to comply with instructions by his immediate supervisor, Mr. John Brawley."

The investigation was conducted on August 7, 1979. A copy of the transcript of the investigation has been made a part of the record. On August 15, 1979, claimant was assessed discipline of suspension from the service for five working days.

On reivew of the transcript of the investigation, we find that none of claimant's substantive procedural rights was violated. The investigation was conducted in a fair and impartial manner. Claimant was present throughout the investigation and was represented. We find no proper basis for the protest of one of the representatives concerning Mr. C. T. Prehm, General Foreman, conducting the investigation.

In the investigation it was established that about 7:00 A.M. on July 30, 1979, claimant was instructed by his supervisor to immediately remove charging cables from the cars making up the consist of Train No. 81, with the exception of cars 8027 and 5655 then as these cars had been charging for less time than others. Claimant was instructed to pull the cables from cars 8027 and 5655 at 7:30 A.M. Claimant did not comply with the instructions to pull the cables from cars 8027 and 5655, telling his supervisor that he would not perform the assignment as he had not had time to consume a meal during his assignment.

It is well settled that employes must comply with the instructions of their supervisors, unless a real safety hazard, proved by the employe, is involved. In the present case no safety hazard was involved. Claimant should have complied with the instructions of his supervisor, and then handle through the grievance procedure if he considered that his agreements rights were violated or that he was mistreated. The rule is briefly stated: "Comply and then complain."

There is no proper basis for the Board to interfere with the discipline imposed by the Carrier.

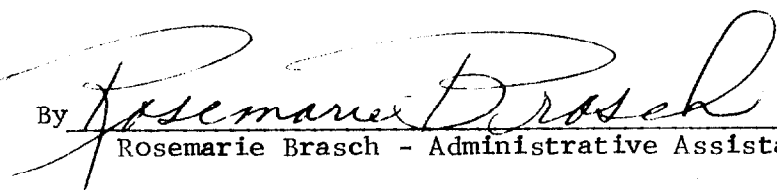
A W A R D

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 24th day of February, 1982.