

The Second Division consisted of the regular members and in addition Referee Francis X. Quinn when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Illinois Central Gulf Railroad Company

Dispute: Claim of Employees:

1. That under the current Agreement, Car Inspector Robert A. Bonie was unjustly suspended from the service of the Illinois Central Gulf Railroad for a period of twenty (20) working days beginning at 11:00 PM on January 6, 1979 and continuing through January 31, 1979.
2. That accordingly, the Illinois Central Gulf Railroad be ordered to compensate Car Inspector Robert A. Bonie for all time lost and any and all other benefits he would be entitled to as a condition of employment account of the aforementioned unjust 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 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 31, 1978, the claimant Carman R. A. Bonie requested permission from Foreman C. Victorian to be off on Veterans Day, Saturday, November 11, 1978, which immediately followed his two scheduled rest days. At that time, Mr. Victorian did not know what work forces would be needed for the holiday, and told Mr. Bonie that he could not give him an answer then. On November 9, 1978, Mr. Bonie again advised Mr. Victorian that he did not intend to work on November 11. At that time Mr. Victorian told Mr. Bonie that there would be no work force reduction in Mays Yard on November 11, 1978 and that he must report for his tour of duty on this day. Mr. Victorian also told Mr. Bonie that he was unauthorized to grant the claimant permission to be off, and that if he wanted to obtain permission, he would have to request it from General Car Foreman C. N. Brown, or Asst. General Car Foreman L. K. Futz before leaving the property on the morning of November 9, 1978. Mr. Bonie's response to Mr. Victorian was "Forget about it".

Mr. Bonie did not report for duty at his regular starting time (11:00 P.M.) on November 11, 1978. Two and one half hours after his shift began, Mr. Bonie's wife called the General Yardmaster's office stating that Mr. Bonie would not be reporting for work. The Company contends that no attempt was made by Mr. Bonie

to obtain permission to be absent. This is a clear contravention of Rule 23 which provides:

"Rule 23. No employee shall absent himself from work for any cause without first obtaining permission from his foreman if possible, except in case of sickness, when he shall notify his foreman as soon as possible. 'Personal business' will be sufficient reason to request leave of absence without detailed explanation thereof."

The Claimant readily admitted that he did not receive permission to be absent on November 11, 1978.

The Organization contends that as a matter of past practice at New Orleans, the incumbents on jobs which are scheduled to work on holidays have the option to work or have their jobs filled by employees off the overtime board.

The Organization contention regarding how yard positions are filled at New Orleans on holidays is true only to a certain extent. The overtime board is referred to only when a part of the yard forces are scheduled to work on holidays. When all of the yard positions are required to work, the incumbents are then expected to work their respective jobs.

Second, the company avers that in order to ensure safe and efficient operations, it must depend upon each of its employees to be present and to work his or her assigned job, unless otherwise excused. It is the Company's position that any other policy would be to court disaster.

That railroads may thus require their employees to follow orders and to work their particular jobs has long been upheld by this Board. As stated by Referee Adolph E. Wenke in Second Division Award 1787:

"Carrier, in directing its work force, is obliged, when exercising this authority, to make the initial interpretation of the rules and direct how the work shall be done. In this respect employees must, as a general rule, carry out the orders given for this purpose and, if such orders are improper, seek redress under the contract in the manner provided for that purpose by the Railway Labor Act. To hold otherwise would condone attempts by employees to take over this duty of management."

In the present case, there can be no dispute that the claimant did not obtain permission to be absent from his position on November 11, 1978. If Mr. Bonie felt that Car Foreman Victorian's denial of permission was improper, the proper recourse would have been to try to get permission from the Asst. General Foreman or work his job and grieve later. Mr. Bonie did not do this.

However, we conclude that the discipline assessed was excessive. It is reduced to ten (10) days.

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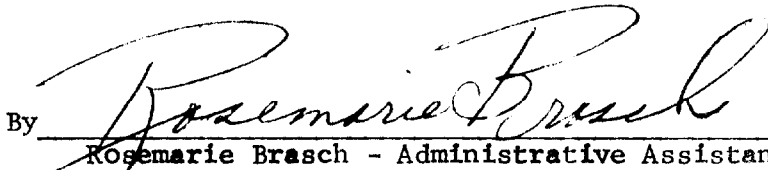
Award No. 8975
Docket No. 8550
2-ICG-CM-'82

A W A R D

Claim sustained in part.

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 10th day of March, 1982.