

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Boston and Maine Corporation, Debtor

Dispute: Claim of Employees:

1. That the Boston and Maine Corp. (hereinafter referred to as the Carrier) violated the provisions of the controlling Agreement, namely Rule 31, when the Carrier unjustly suspended Carman-Helper H. J. Satrowski (hereinafter referred to as the Claimant) for 10 days beginning on July 10, 1980 and ending on July 24, 1980. Also the Claimant was improperly assessed 12 Demerits against his service record because of the alleged violation.
2. That accordingly, the Carrier be ordered to compensate the Claimant for all time lost at the Carmen's pro rata rate and remove the 12 Demerits from the Claimant's service record.

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.

The facts did not justify the Carrier's holding the Claimant, Henry G. Satrowski out of service pending the hearing. The Claimant did not refuse a direct order of a Carrier official. The Foreman Wreckmaster evidenced a lack of managerial temperament and poor judgment in his handling of Mr. Satrowski's request for rubber gloves to use while steam cleaning the bull-dozer in question in preparation for repairs. Mr. Satrowski evidenced carelessness in the manner in which he reported his injury. The suspension assessed by the Carrier in this case was for a ten day period, which covered the time the Claimant was held out of service while he was waiting for a hearing. As stated above the facts did not justify the Carrier holding the Claimant out of service. Substantial evidence of record does not exist to support a finding that Mr. Satrowski was responsible for the major offense of insubordination. We find that no suspension should have been imposed in the instant case. We find however that the 12 demerits assessed against Mr. Satrowski's service record are proper because of the careless manner in which he reported his injury on the morning of July 10, 1980.

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Award No. 9517
Docket No. 9533
2-B&M-CM-'83

A W A R D

Claim sustained as indicated in the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

BY


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of June, 1983.