

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

Parties to Dispute: { International Brotherhood of Firemen and Oilers
National Railroad Passenger Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer Roy L. White was unjustly dismissed from service of the Carrier following investigation held on August 5, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned Roy L. White whole by restoring him to Carrier's service, with seniority rights unimpaired, made whole for all vacation rights, holidays, sick leave benefits, and all other benefits that are a condition of employment unimpaired, and compensated for all lost time plus ten (10%) percent interest annually on all lost wages, also reimbursement for all losses sustained account of coverage under health and welfare and life insurance agreements during the time he has been held out of service.

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 Claimant, Roy L. White, was employed as a Fireman and Oiler at the Carrier's Rensselaer Maintenance Facility, having been hired in 1977. By notice dated July 16, 1980, Mr. White was instructed to attend an investigation in connection with the following charge:

"Violation of the Amtrak Rules of Conduct, Rules I & O, in that on or about 7/15/80, at approximately 11:45 P.M., you sold one James M. Williams a pass ticket obtained in your name."

The investigation was held on August 5, 1980, at which investigation Mr. White was represented by his General Chairman and his Local Chairman. By notice, dated August 11, 1980, the Carrier's Investigating Officer, Mr. P. D. Driscoll determined that the charges against Mr. White were sustained; and assessed the discipline of dismissal from service. Claim was filed on behalf of the Claimant, was progressed in a timely fashion in the usual manner on the property, and the claim is now properly before this Board.

We find that substantial evidence of record supports the Carrier's finding that Mr. White was responsible for violating Amtrak Rules of Conduct, Rules I & O in the selling of a pass ticket obtained in Mr. White's name to Mr. J. M. Williams. This evidence includes the testimony of Mr. W. A. Moschella, Special Agent with the FBI, Captain C. B. Finn of the Amtrak Police, and the detailed statement of Mr. J. M. Williams.

We find that the discipline assessed was neither arbitrary, capricious nor excessive in view of the seriousness of the matter, and Mr. White's past disciplinary record.

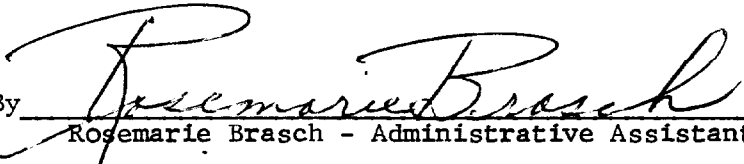
A W A R D

Claim denied.

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.