

The Second Division consisted of the regular members and in addition Referee James F. Scarce when award was rendered.

Parties to Dispute: ( International Brotherhood of Electrical Workers  
( Southern Pacific Transportation Company (Pacific Lines)

Dispute: Claim of Employes:

1. That under the current Agreement, Mechanical Department Electrical N. P. Kalfountzos was unjustly treated when he was counseled on January 15, 1980, for allegedly violating Rule 802 of the General Rules and Regulations of the Southern Pacific Transportation Company (Pacific Lines) and advised that a letter dated January 16, 1980, concerning his productive effort in cutting electrical wires for use in rebuilding diesel locomotives was being placed on his personal record.
2. That accordingly, the Southern Pacific Transportation Company (Pacific Lines) be ordered to remove the letter of January 16, 1980, regarding the reading of Rule 802 and productive effort be removed from Electrician Kalfountzos's personal record or allow him due process under Rule 39 of the controlling Motive Power and Car Departments' Agreement.

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.

Dispute here is over the holding of a conference with and issuance to the Claimant of a letter concerning such discussion about a certain piece of work performed by him. The gravamen is the status of such conference/letter, i.e. whether it was educational and instructive and therefore not subject to contest via a formal hearing -- as provided by Rule 39 of the controlling Agreement -- or whether it was disciplinary in nature and thus subject to such Rule. The essential element of the aforementioned letter, dated January 16, 1980, is as follows:

"... While this matter is being passed without formal disciplinary action at this time, I want it thoroughly understood that your recent performance of work is considered unacceptable and continuation of this type of performance could result in disciplinary action.

I trust it will not be necessary to call this matter to your attention again."

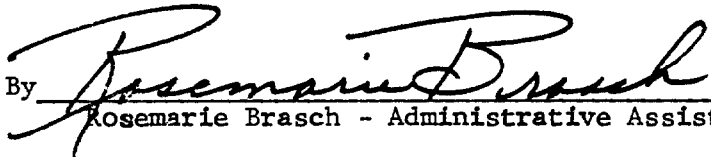
Applicable case histories before this Board have established a reasonable approach to this subject in that where such counselling/letters are meant to be helpful in improving an employe's work performance, they are permissible and not subject to challenge; it follows that such counsellings are not properly cited in disciplinary actions, either. While we find the circumstances here not to be so clearly defined as asserted by the Carrier, nonetheless we conclude it meets the educational/instructive criteria and falls short of being disciplinary in nature. As a consequence we find no basis to affirm the claim as raised by the Organization.

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 13th day of July, 1983.