

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister 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 Charles S. Brown was unjustly dismissed from service of the Carrier following investigation held on August 26, 1980.
2. That, accordingly, the Carrier be ordered to make the afore-mentioned Charles S. Brown 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 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.

The Claimant, Charles S. Brown, a laborer, was dismissed from service for engaging in a physical and verbal altercation with another employee on August 11, 1980.

The Organization asserts the dismissal was unjust, and the investigation was conducted in a biased manner. The Board has carefully reviewed the transcript and concludes the Claimant and his representative were afforded the opportunity to present evidence and cross examine witnesses. We find the hearing was conducted in a fair and impartial manner.

Despite some conflict in the testimony, the record establishes a dispute did arise between the Claimant and Employee Roxanne Meades and physical contact was made. There can be no doubt the Carrier had cause to discipline the Claimant. This Board, having considered the singular circumstances of the

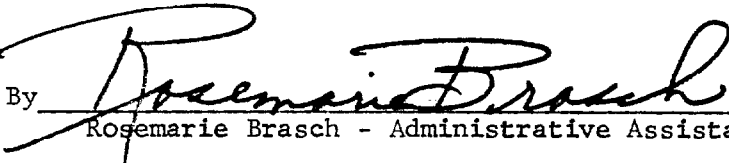
incident of August 11, 1980, believes the Claimant should be given one last and final chance. We, therefore, have determined the period since his dismissal shall be considered a salutory suspension. In so finding, this Board strongly reminds the Claimant that altercations and disputes with other employees cannot be tolerated. His restoration to service is predicated upon the understanding that any repetition of such conduct could bring about a permanent dismissal.

A W A R D

This claim is sustained in part. Claimant is to be reinstated without back pay with seniority rights unimpaired.

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 20th day of July, 1983.