

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 9760
Docket No. 8422
2-CRI&P-CM-'84

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada
(Chicago, Rock Island and Pacific Railroad Company

Dispute: Claim of Employees:

(1) That under the terms of the applicable Agreement the Carrier unjustly suspended Carman Helper H. L. Cooper for 90 days.

(2) That accordingly the Carrier be ordered to compensate Carman Helper H. L. Cooper for 63 days pay in the 90 days of 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 employee or employees involved in this dispute are respectively carrier and employees 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.

Claimant was employed as a crane operator at the Carrier's Kansas City, Kansas location.

On January 31, 1979 Claimant was instructed to fill a vacancy on one of his rest days. Claimant did not comply with the instruction. After an investigation, Claimant was given a 30 day deferred suspension for his failure.

On February 6, 1979, Claimant was again instructed that the Carrier needed his services, and he again refused. As a result of a subsequent investigation, Claimant was assessed a 60 day suspension. It is the effect of these two actions that has been appealed to this Board.

The record supports the conclusion that Claimant was specifically instructed to report for work and refused to comply. In recent Second Division Award 9553 we stated:

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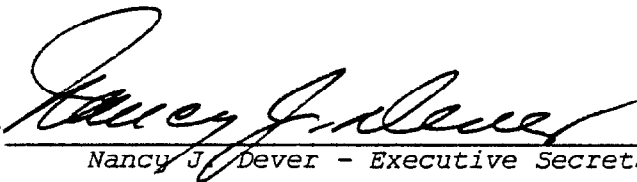
"Moreover, allegations that there was no emergency or that others were available but were not asked to work overtime do not gainsay that Claimant, a long time experienced employee, should have worked as directed and then grieved. There was substantial evidence to sustain the Carrier's decision to discipline Claimant ..."

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 18th day of January 1984.