

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
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(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. That in violation of the current Agreement, Laborer R. Peterson, Chicago, Illinois, was unfairly dismissed from service of the Chicago North Western Transportation Company effective February 16, 1980.
2. That accordingly, the Carrier be ordered to make Mr. Peterson whole by restoring him to service with seniority rights, vacation rights, and all other benefits that are a condition of employment, unimpaired, with compensation for all lost time plus 6% annual interest; with reimbursement of all losses sustained account loss of coverage under Health and Welfare and Life Insurance Agreements during the time held out of service; and the mark removed from his 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 employes 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.

R. Peterson, the Claimant, was employed as a laborer at the Carrier's Proviso Diesel Shop. On January 7, 1980, the Claimant was engaged in fueling three locomotives. One of the units, No. 833, spilled fuel. As a result, the Claimant was charged with not properly performing his duties. Following a hearing, the Claimant was informed, on February 13, 1980, that he was dismissed from service.

The Organization asserts the Claimant's dismissal is not supported by the evidence and that the Carrier's penalty of removal was an unjust abuse of managerial discretion. Notwithstanding, this Board has reviewed the record and finds substantial evidence supporting the charge the Claimant was responsible for the fueling of the engines, including No. 833, and that he was not in his proper place of duty when the spill occurred. Having concluded that the claim is without merit, consideration of the Carrier's position concerning the appropriateness of the claim being before the Board is unnecessary.

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 7th day of March, 1984.