

The Second Division consisted of the regular members and in addition Referee W. J. Peck when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(
(Southern Pacific Transportation Company

Dispute: Claim of Employees:

1. That the Carrier improperly dismissed Machinist G. R. Forgit (hereinafter referred to as Claimant) on February 10, 1981.
2. That, accordingly, the Carrier be ordered to restore Claimant to service with seniority and service rights unimpaired and with compensation for all wage and benefit loss.

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.

This dispute involves the following facts and circumstances, the Claimant involved in this dispute is a machinist employed by the Southern Pacific Transportation Company at West Colton, California.

On date of January 20, 1981 Claimant was instructed by Carrier to attend a formal hearing in the office of the Plant Manager at Bloomington, California on date of January 28, 1981 account alleged dishonest, negligence and indifference on the part of the Claimant to the performance of duties in servicing and taking oil samples of certain Locomotive units on dates of January 14, and 15, 1981.

The hearing was held as scheduled, Claimant being represented by 3 (three) members of the Organization. Facts developed at the hearing shows that oil samples allegedly taken by the Claimant from 10 (ten) different Locomotive units were in fact new oil never previously used in any unit. Facts also developed at the hearing show that one Locomotive unit alleged serviced by the Claimant was in fact low on oil in both the crankcase and the compressor.

In defense the Employees claim that some unknown person must have switched oil samples, substituting new oil for used oil in the sample bottles, however they submit not an iota of proof in regard to this claim. They also claim that the low oil in the compressor was the result of a faulty gasket which alleged

allowed about 9 (nine) gallons of oil to leak out on the floor. However apparently no one, either official or Employee ever saw the resulting puddle of oil which would have had to be quite large, and if anyone was ever assigned to clean it up it does not appear in the record.

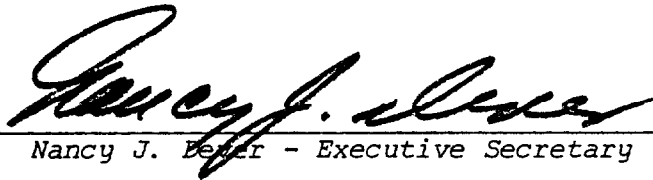
In considering all of the facts of the case we find that the Carrier has sustained their burden of proof and must deny claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Peter - Executive Secretary

Dated at Chicago, Illinois, this 6th day of June, 1984