

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  
(  
( Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the Consolidated Rail Corporation be ordered to restore Machinist Julio Perez, Jr. to service and compensate him for all pay lost up to time of restoration to service at the prevailing machinist rate of pay.
2. That Machinist Julio Perez, Jr. be compensated for all insurance benefits, vacation benefits, holiday benefits and any other benefits that may have accrued and were lost during this period, in accordance with Rule 7-A-1 (e) of the prevailing Agreement which was effective May 1, 1979.

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.

Claimant was employed by the Carrier as a Machinist on date of September 4, 1974. While the record does not so state this was apparently at Carrier's Grand Central Terminal, New York City, and also although the record does not so state Claimant apparently was employed at that facility until the event which triggered this event occurred.

On date of May 4, 1981 Carrier sent Claimant a notice advising him that he was removed from the service of the Carrier and further that he would be notified of the charges to be lodged against him and of the time and place of trial. On date of May 5, 1981 Claimant was advised by Carrier that he would be charged with unauthorized removal and possession of company property at approximately 1:30 P.M. on May 4, 1981, in that he had allegedly been observed with two cans of the Racon Refrigerant in the trunk of his automobile by Conrail Police Officer Joseph Boughal. Time of the trial May 12, 1981, place, the Office of the Assistant Master Mechanic Track 39, Grand Central Terminal.

The trial was held as scheduled, but the Claimant did not appear, and other than coming onto the property to pick up his check has not been seen since. He was represented in absentia by the Local Shop Steward.

On date of May 14, 1981 Claimant was advised by Carrier via mail service that he was "assessed the discipline of dismissal in all capacities."

In their submission to this Board Carrier contends that the claim should be dismissed as not properly before this Board. They also contend that the charges were clearly proven and that the claim should be denied.

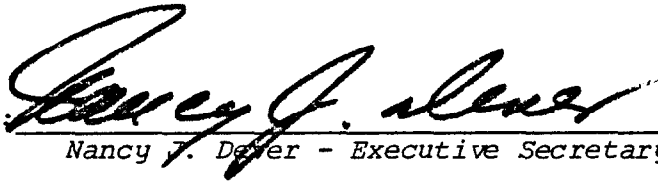
In considering all of the facts and evidence in this case, it is clear that the Claimant did take the coolant.

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 6th day of June, 1984