

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

Parties to Dispute: (Int'l. Brotherhood of Firemen and Oilers
(System Council No. 44, AFL-CIO
(
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That under the current and controlling agreement, as amended, Laborer Andrew Foster, I.D. No. 154974, was unjustly suspended from the service of the Seaboard Coast Line Railroad Company on December 21, 1981 through February 18, 1982, after a formal investigation was held in the office of Mr. J. W. Griffin, Asst. Master Mechanic And Conducting Officer, on November 17, 1981.
2. That accordingly, Laborer Andrew Foster be compensated for all lost time, vacation, health and welfare benefits, hospital and life insurance and dental insurance premiums be paid effective December 21, 1981 through February 18, 1982, and the payment of 6% interest rate be added thereto.

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 laborer at Hialeah, Florida, with an employment date of October 24, 1969, with assigned hours 8:00 A.M. to 4:00 P.M., Monday through Friday. On November 6, 1981, claimant was notified by the Assistant Master Mechanic:

"You are directed to attend investigation scheduled to be held in office of Assistant Master Mechanic, Hialeah, Florida, at 10:00 AM, Tuesday, November 17, 1981 to develop facts and determine responsibility if any, in connection with possible violation of Rules 4, 7, and 26 of the Seaboard Coast Line Railroad Company Rules and Regulations of the Mechanical Department.

These possible violations having occurred in the Hialeah Yard area on Monday, November 2, 1981, at approximately 9:30 AM until 10:50 AM.

"You may have representation if you so desire in accordance with the Agreement under which you are employed, and you may arrange to have present any witnesses who may have knowledge of the matter under investigation.

At the conclusion of the investigation your personal record will be reviewed."

The investigation was conducted as scheduled. A copy of the transcript has been made a part of the record. From our review, we conclude that the investigation was conducted in a fair and impartial manner and that none of claimant's substantive procedural rights were violated.

In the investigation there was substantial evidence that claimant was observed on two, or perhaps three, occasions engaged in a conversation with a lady applicant for a position, which conversations took place in or near the Carrier's office building.

Carrier's Rules, 4, 7, and 26, referred to in the letter of charge, read:

Rule 4:

"Employees are required to devote their time exclusively to the business of the Company unless expressly exempted from so doing by proper authority."

Rule 7:

"Each employee will be held responsible for the work assigned him, and see that the drawings and instructions are strictly followed."

Rule 26:

"Employees must not absent themselves from their duties without permission from the proper authority."

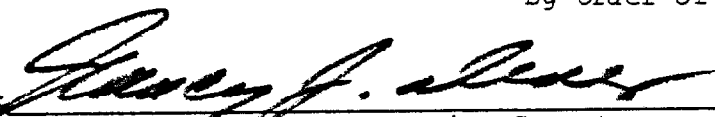
Based on the facts developed, discipline against claimant was warranted, but a sixty day suspension from service from December 21, 1981, through February 18, 1982, was excessive. We will award that the suspension be reduced to thirty days, and that claimant be paid for wage loss, if any, in accordance with Rule 28 of the Agreement, for any time lost beyond thirty days.

A W A R D

Claim sustained to the extent indicated in Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Defer - Executive Secretary

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