

The Second Division consisted of the regular members and in addition Referee Hyman Cohen when award was rendered.

Parties to Dispute: (Kenneth L. Hinton
(
(Union Pacific Railroad Company

Dispute: Claim of Employee:

I, Kenneth L. Hinton, have discovered a conspiracy to dwarf my access to the proper work records relating to my employment and membership with Union Pacific Railroad, Armstrong Lodge - #762 (Brotherhood Railway Carmen), and the U. S. Railroad Retirement Boards.

I'm presently appealing an Order of Honorable Judge Earl O'Connor submitted June 28, 1982, in the Federal District Court of Kansas City, Kansas. Rule 60 of the Federal Rules of Civil Procedure is grounds accordingly, for my appeal as defined in my letter/motion filed February 9, 1982 with Court of Appeals - 10th Circuit, Federal District Court of Kansas - 1083, and Ronald Gott, attorney for the Missouri Pacific Railroad, defendant in Civil Action No. 78-2123; Appeals No.: 81-1312; 82-1865.

Provided the Second Division of the National Railroad Adjustment Board can honor the enclosed request, evidence will disclose my initial starting date of employment with the Union Pacific Railroad was advanced on my personal employment record (defendant's exhibit no. 3 embodied into defendant's Class - A exhibit) by mistake or through collusive acts with Missouri Pacific Railroad; Kenneth L. Hinton's body weight for the year 1968 was fraudulently recorded from information assimilated through an incorrect unknown source, foreign to that particular era (see exhibit Body Weight); my hand-signed signatures were fraudulently copied and machine-typed for substitution through records fabricated to protect incrimination of Union Pacific Railroad's past misdeeds in aborting my access to a fair and impartial hearing (1968), and simultaneously protecting the mutual interest of its merged "sister" company, Missouri Pacific Railroad, trial days, November 13, 14, 1980 (Hinton v. Missouri Pacific Railroad). This surprise rebuttal evidence (class-A exhibit of defendant) offered some twelve years later, through acts of deceit, distortion, and fraud (collateral), culminated in loss of credibility rating before Honorable Judge Earl O'Connor; and thus far denial, to the Courts, access to blind justice.

Provided the Second Division of the National Railroad Adjustment Board can honor this request, evidence will disclose the machine-typed signatures of R. J. Dunn - master mechanic, A. H. Blanken(?) - foreman Woodston Glidewell - assistant local chairman (Brotherhood Railway Carmen), and Kenneth L. Hinton) because of legality concerning the authenticity of signatures machine-typed as opposed to signatures hand-signed) must be regarded suspiciously.

Careful consideration should also be given to the over-dubbing of signatures of Kenneth L. Hinton (carmen-apprentice), and Ruth Maloney (witness to the signing of Kenneth L. Hinton's signature) some (?) significant day, on pages one and thirteen respectively of Class-A exhibit - Transcript of Investigation hearing. Please note Exhibit Trial Transcript.

Trial Transcript, November 14, 1980, Federal District Court of Kansas, pages 125, 126 answer by Mr. Brewster, Union Pacific Railroad general car foreman, to question directed by Ronald Gott, attorney for Missouri Pacific Railroad.

....they give it to whoever they are representing and say we have read this, this is okay, want you to read it and sign it, and the person goes through, that the investigation was held on.

1. Where is the date(?) located Ruth Maloney supposedly countersigned to witness to the signing of Kenneth L. Hinton's signature located?

The distorted signature of Kenneth L. Hinton on page thirteen of Union Pacific's Transcript of Investigation and Hearing shows an omission of bars in "t" of Kenneth L. Hinton, therefore, I could not give credence to a document void of complete personality of which only I could vouch for through my instinctive and habitual signing of Kenneth L. Hinton over the years.

I also believe that further investigation of the contents of Class-A Exhibit, transcript of investigation and hearing held August 29, 1968 will divulge "other" irregularities my inexperienced eye cannot detect because stymied attempts to work for the railroad industry by agents of the Union/Missouri Pacific Railroad System.

Please provide as the delegated neutral party, through Act of Congress and in accord with Railroad Labor Act, Freedom of Information Act, Labor-Management and Disclosure Act, and Labor Management Cooperative Act, all documents and records of information I've failed to receive by request, and all documents I have absence of knowledge yet to receive concerning the enclosed requests for information necessary to validate the contentions of my letter/motion filed February 9, 1982 with Court of Appeals - 10th Circuit and Federal District Court of Kansas - 1083.

Please provide documents and answers to questions previously denied through incomplete answers received from enclosed information letters whereby the repetition thus far suffered can now come to a respectful conclusion.

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 were given due notice of hearing thereon.

Kenneth L. Hinton was last employed by the Carrier on September 18, 1968, at which time he held an assignment as Carman at the Carrier's facility located at Kansas City, Kansas. Following an investigation which was held on August 29, 1968, Mr. Hinton was dismissed from service for violating the Carrier's Operating Rules 702 and 702 (A) for sleeping in his automobile during his regular tour of duty.

The first notice the Carrier was given of Mr. Hinton's grievance was in November, 1982 when it received a complaint which he refers to as "forthcoming" and sets forth the following:

"*** whether the legality of Class A Exhibit offered as rebuttal evidence by the Missouri Pacific Railroad Company on November 14, 1980 in the Federal District Court of Kansas, was authentic or an assimilated copy drafted by the Missouri Pacific Railroad and the Carrier's agents to protect their respective and mutual interests at 'costs' to Kenneth L. Hinton."

Continuing with his "forthcoming" complaint he sets forth the following:

"Kenneth L. Hinton's in-access to secure information questioning the authenticity of Class A Exhibit and questions whether this in-access by agents and agencies associated with the aforementioned railroads or within accord of the Railroad Labor Act, Freedom of Information Act, Labor Management and Disclosure Act, and Labor-Management Cooperative Act when information requested is most vital to Kenneth L. Hinton's cause as representative in forma pauper is before the Court of Appeals-10th Circuit (83-1865 Hinton v. Missouri Pacific Railroad.)"

Since the grievance was not "handled in the usual manner" as required under Section 3, First (i) of the Railway Labor Act, the Board concludes that the grievance is dismissed without any consideration to be given to the merits. Even if there was an employment relationship between Mr. Hinton and the Carrier (which has not existed for fourteen (14) years) the grievance was not properly handled in accordance with Rule 35 of the Agreement between the Carrier and System Federation No. 105, Railway Employees' Department, AFL, Mechanical Section No. 1. Furthermore, the grievance is vague, indefinite and uncertain and thus it is impossible to determine with certainty the essential facts constituting the grievance so that the Carrier can adequately respond to it.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 17th day of October 1984.