

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

Parties to Dispute: (International Association of Machinists and Aerospace Workers
(Union Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Carrier improperly dismissed Machinist J. Hardage (hereinafter referred to as Claimant) from service on June 18, 1982.
2. That, accordingly, the Carrier be ordered to restore Claimant to service with seniority and service rights unimpaired, with compensation for all wage 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 employee or employees involved in this dispute are respectively carrier and employees 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.

An investigative hearing was held on June 4, 1982 to determine Claimant's responsibility in connection with the purported theft of Company property.

He was adjudged guilty of violating a number of the Carrier's Rules and as a result thereof, was dismissed from the service.

The Organization argues that the Claimant had no intent to steal Company property, in that it was never converted to personal use. It also contends that other employees who acted in a manner similar to the Claimant, with respect to the use of the Carrier's property, were not disciplined by the Carrier and, therefore, disparate treatment is evident in this matter.

The Board finds substantial evidence in the record in support of the charge against the Claimant. His contention that he was not intending to use the Carrier's property for personal use is not persuasive. Nor do we find that the Carrier imposed unequal treatment of the Claimant with respect to the treatment of other employees. Accordingly, given the finding of guilt and the short service and past record of the Claimant, there is no proper basis for the Board to interfere with the discipline imposed by the Carrier.

Form 1
Page 2

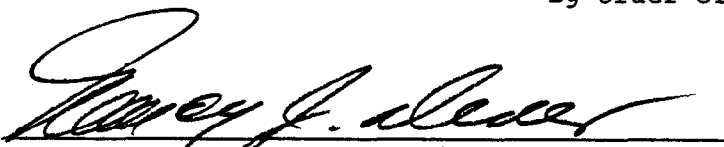
Award No. 10282
Docket No. 10110
2-UP-MA-'85

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 27th day of February 1985.