

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  
( Southern Pacific Transportation Company  
(Eastern Lines)

Dispute: Claim of Employees:

Claim in behalf of Machinist R. A. Hightower for reinstatement with all benefits unimpaired and compensation for all time lost from the time he is released by his doctor to return to work from an on-the-job injury.

This being due to Carrier's unjust dismissal by letter dated February 8, 1982 contrary to the controlling Agreement.

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.

This dispute came about after a finding of guilt on the charge that the Claimant had failed to provide blue flag protection on the equipment on which he was working, and that he also neglected "to cut the air brakes out" on the equipment, resulting in a personal injury to himself.

The Organization vigorously advances its contentions on procedural and substantive grounds. It provides well-stated arguments, both with respect to due process violations and on the merits, that the Carrier has not met its burden of proof required in a dismissal action.

While the Board is not unmindful of the Organization's contentions, and fully recognizes the concerns expressed, we find no violation of the Claimant's rights. With respect to the substantive issues herein, the evidence supports the Carrier's findings of serious violations of its rules. We cannot ignore Carrier's position of the importance of strictly enforcing its safety regulations. Accordingly, under the circumstances and facts presented in this record, the claim is denied.

Form 1  
Page 2

Award No. 10288  
Docket No. 10134  
2-SP-MA-'85

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Fever - Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1985.