

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada
(Washington Terminal Company

Dispute: Claim of Employees

1. That the Washington Terminal Company violated the controlling agreement when they unjustly suspended Carman Floyd Jordan as a result of investigation held on November 2, 1982.
2. That accordingly the Washington Terminal Company be ordered to reinstate Floyd Jordan with compensation for his net wage loss, seniority and vacation rights unimpaired, and made whole any loss due to health and welfare benefits not continued.

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.

The Claimant has been in the service of the Carrier as a Car Repairman for six and one-half (6 1/2) years. Following a hearing that was held on November 2, 1982, the Claimant was suspended for thirty (30) days because he failed to properly perform his duties as a Car Repairman on September 3, 1982 by not performing the terminal brake test on B&O Train 174. His failure to perform the terminal brake test resulted in a six (6) minute delay to Train 174.

The record discloses that the Claimant was required to perform the terminal brake test on Train 174 on September 3, 1982. Granted, the Claimant "can only do one thing at a time". He acknowledged that the terminal brake test on Train 174 was solely his responsibility and that he was aware that the departure time of the train was 5:05 p.m. At no time did the Claimant inform a supervisor that he had not worked the brakes on Train 174. He failed to so advise a supervisor because as he stated, General Foreman Lewis knew that he was working on Train 470. However, the Claimant acknowledged, he did not "know if he (General Foreman Lewis) knew or not" that he had not worked the brakes on Train 174. It was not until 5:05 p.m. when General Foreman Lewis was first notified that the brake test had not been performed on Train 174.

The record also discloses that between 4:13 p.m. and 5:02 p.m. the Claimant waited for the engine of Train 470 to arrive. During this period of time, the Claimant said that he was attempting to obtain information as to when the engine of Train 470 would be at the track. He remained with Train 470 because he "thought" he "should have stayed to protect" himself.

Based upon the record, the Board concludes that between 4:13 p.m. and 5:02 p.m. on September 3, 1982 the Claimant had ample time to perform the terminal brake test on Train 174 but failed to do so. Assuming that he did not have ample time to work the brakes on Train 174, the Claimant was required to notify a supervisor that the brakes on Train 174 had not been worked on. There is nothing in the record to indicate that a practice exists whereby a Car Repairman must remain with a train until the work is completed. Accordingly, the Claimant failed to properly perform his duties as a Car Repairman when on September 3, 1982 he failed to perform the terminal brake test on Train 174 causing a six (6) minute delay to the train.


The Board has carefully examined the Organization's claim that the thirty (30) day suspension assessed against the Claimant was "too harsh". In light of the Claimant's disciplinary record since April, 1981, which includes three (3) similar incidents resulting in disciplinary suspensions ranging from one (1) to thirty (30) days, the Board concludes that the penalty imposed in this case should not be disturbed.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois, this 4th day of September 1985.