

The Second Division consisted of the regular members and in addition Referee James R. Cox when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the U.S. and Canada  
(Southern Railway Company

Dispute: Claim of Employes:

1. That under the current Agreement, Carman W. R. Crawford, Atlanta, Georgia, was unjustly suspended from service from June 30, 1982 through July 14, 1982.

2. That accordingly, the Carrier be ordered to pay Carman W. R. Crawford for all time lost while suspended from service.

FINDING:

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 suspended from June 30, 1982 through July 14, 1982 for being away from his assigned work area on June 8, 1982 without permission. The employees argue that the Carrier violated Rule 34 in that Claimant was not proven to be at fault.

Car Foreman Lassiter tried to call Crawford eight or ten times June 8th by radio in order to direct him to watch a particular train out of the Yard. When the General Foreman went to the North end of the Yard to see why Claimant was not answering his radio, he saw Claimant driving in his personal vehicle, driving up toward the Car Inspector Shack at the North end of the Forwarding Yard, along a road on railroad property which leads from a public highway. When asked where he had been, Claimant responded that he had been to get something to eat. According to the evidence, employees are not to leave the property except with the Supervisor's permission and then should be off the clock. The General Foreman, using Claimant's radio, called for the Car Foreman. The radio functioned properly at that time.

When asked whether he knew that getting something to eat was improper, the Foreman stated that Claimant responded he had not been off the property.

Carman Smith was present at the preliminary investigation. He noted that the General Foreman had then tried to call the Car Foreman on Claimant's radio. The first time there was no answer, but the Foreman did answer the second call.

The Carman stated at the formal investigation that he had called Claimant Crawford's attention to a missing hubcap on his car sometime earlier in the evening and that Claimant told him that he might have lost it coming down the hill when he hit a hole.

Claimant testified that he hit a pothole coming to work and, when he was told that a hubcap was missing, decided to go up and look for it about 2:30 A.M. before he ate lunch. He said he did hear the Car Foreman calling him on the radio but that his radio would not work. He found the hubcap, got back into the car and went down the hill where he was confronted by the General Foreman. Claimant denies that the General Foreman ever asked him where he had been. Significantly, Crawford had made no mention of a hubcap search at the preliminary investigation.

Crawford claimed that his radio was bad and was not used at the North end after that night. However, the radio book indicates that Crawford himself used the same radio the next day. It was sent to the shop June 10th, or shortly thereafter.

In March, 1978 Crawford had been reprimanded for being out of his assigned work area in his own vehicle without the Foreman's authorization.

The evidence does establish that Claimant Crawford was seen June 8th in a non-work area away from work areas driving his personal car toward the Inspector Shack. He makes no Claim that he had or attempted to get permission to leave his work area. He also did not contend that he had duties in the area where he had driven his car.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of October, 1985