

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10722
Docket No. 10484
2-SSR-MA-'86

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

(International Association of Machinists and Aerospace
(Workers

Parties to Dispute: (

(Seaboard System Railroad

Dispute: Claim of Employees:

1. That under the current Agreement, Machinist B. L. Simmons was unjustly treated when he was adjudged guilty and assessed (sic) thirty demerits on September 16, 1981 for alleged violation of Rules 7 and 12 of the Rules and Regulations of the Mechanical Department. Said alleged violation occurring on August 6, 1981.

2. That accordingly, the Seaboard System Railroad Company be ordered to remove the guilty verdict along with the thirty (30) demerits from Mr. Simon's record.

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 Organization contends that Machinist B. L. Simmons was improperly assessed thirty demerits for violations of Rules 7 and 12 of the Mechanical Department when he replaced an iron brake shoe with a composition-type shoe he found in the back of his truck. The evidence established that Machinists had been verbally instructed to use Cast Iron Shoes on engines of the type involved in this case. Cast Iron Shoes had been put on the Units for at least a month preceding the incident. As engines came through the shop all Composition Shoes were to be replaced. One Machinist testified that he never knew of any time that the Company had permitted mixing shoes except in emergency situations.

About one hour after he had put the Composition Shoe on a wheel, a wheel was reported running hot and Claimant was dispatched to make necessary repairs. He did not bring an Iron Shoe with him in an effort to change the Composition Shoe. Subsequently, the Master Mechanic found the hot wheel and Claimant Simmons was instructed to change the composition shoe. Significantly, the evidence indicated that the area where the repair was being made was not far from the shop where the Iron Shoes were available. A Machinist who went out with Claimant during his second trip to the engine acknowledged that if he had had a Iron Shoe with him he would have replaced the Composition Shoe at the time.

Claimant's conduct justified the discipline imposed.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever, Executive Secretary

Dated at Chicago, Illinois, this 29th day of January 1986.