

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 10830  
Docket No. 9935  
2-SCL-CM-'86

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

(Brotherhood Railway Carmen of the United States  
( and Canada  
Parties to Dispute: (  
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That the Seaboard Coast Line Railroad Company violated the current controlling agreement when Carman J. T. Fagen was suspended beginning December 17, 1980 and ending December 21, 1980, both dates inclusive, resulting from investigation held on November 25, 1980 at Tampa, Florida.

2. That the Seaboard Coast Line Railroad Company violated the Railway Labor Act by arbitrarily imposing rules not negotiated between representatives of the employees and the before said Company.

3. That the Seaboard Coast Line Railroad Company discriminated against Carman Fagen by holding this unwarranted investigation.

4. That the Seaboard Coast Line Railroad Company violated General Rules 30 and 32 of the current agreement as the alleged charges were incorrect, not precise and were prejudicial.

5. That the Carrier committed a procedural defect when Master Mechanic R. D. Brigman, Jr. acted in all capacities regarding this case, except that of the conducting officer of the hearing.

6. That accordingly, the Seaboard Coast Line Railroad Company be ordered to compensate Carman Fagen for time lost, that being three (3) eight (8) hour days at straight time and all other benefits he would have accrued had this violative action against Carman Fagen not occurred.

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 Claim arose subsequent to an Investigation which resulted in the Carrier's finding that the Claimant was in possession of beer on its property and, consequently, that he was in violation of Rule 18 prohibiting the use or possession of intoxicants or narcotics while on duty or on Company property.

The Board has examined the lengthy transcript of the Investigation conducted on the property and the remainder of the total record before us, and finds that there was no procedural violation of the Agreement by the Carrier and that there was substantial evidence to support the Carrier's determination. We see no basis to set aside the discipline issued the Claimant.

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 30th day of April 1986.