

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

(International Brotherhood of Electrical Workers
Parties to Dispute: (
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. That the Chicago & North Western Transportation Company violated the controlling Agreement dated July 1, 1921, as amended, specifically Rule 35, when they suspended Electrician Allie Burns, regularly employed at the M19A Diesel Ramp, for thirty (30) days after an investigation in which Carrier failed to sustain its charges.

2. That the Chicago & North Western Transportation Company be ordered to compensate Electrician Allie Burns for all wages lost, insurance, pension, vacations and any other benefits lost due to this arbitrary action of the Carrier.

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.

At the time of the occurrence giving rise to the dispute herein Claimant was employed as an Electrician at Carrier's M19-A Diesel Shop in Chicago. The Carrier states that about 8:10 A.M., April 25, 1985, Claimant was instructed by the Foreman to perform certain work, which Claimant questioned the Foreman as to why another Electrician never had to do that type of work. Shortly thereafter Claimant was observed standing near his locker, with a yellow garbage can nearby, tearing pages out of technical manuals and throwing them in the garbage can. Claimant was observed by two Foremen, who later recovered schematic diagrams and maintenance manuals from the garbage can. On April 26, 1985, Claimant was instructed to attend a formal Investigation, scheduled for 10:00 A.M., May 2, 1985, on the charge:

"Your responsibility, if any, in connection with the destruction of Company property on April 25, 1985 at approximately 8:30 A.M."

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The Investigation was postponed and conducted on May 17, 1985. A copy of the transcript has been made a part of the record. On May 30, 1985, Claimant was assessed discipline of a suspension of thirty days.

The transcript of the Investigation contains substantial evidence in support of the charge that Claimant did destroy Company property on April 25, 1985, without authority. While there were conflicts between the testimony of Claimant and supervisory personnel, it is well settled that the Board does not weigh evidence, attempt to resolve conflicts therein, or pass upon the credibility of witnesses. Neither do conflicts in testimony warrant disturbing Carrier's disciplinary action.

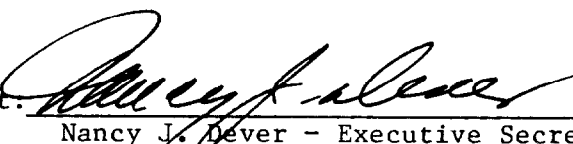
The discipline imposed by the Carrier was not arbitrary, capricious, or in bad faith.

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 1st day of July 1987.