

The Second Division consisted of the regular members and in addition Referee Thomas F. Carey when award was rendered.

(International Association of Machinists and Aerospace
(Workers
PARTIES TO DISPUTE: (
(Grand Trunk Western Railroad Company

STATEMENT OF CLAIM:

1. That the Grand Trunk Western Railroad violated the controlling Agreement dated September 1, 1949, as subsequently amended, when it unjustly suspended Machinist R. W. Podlasek from the service of the Carrier at Battle Creek, Michigan, on date of May 18, 1986, and subsequently dismissed him from the service on date of June 27, 1986, because he was allegedly found guilty of sleeping on duty, reporting to work under the influence of intoxicants or any other substance, failure to fulfill and protect your assignment (charges specifically detailed in Employees' Exhibit A").

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 was observed by the Enginehouse Foreman on May 18, 1986, sitting in the cab of Unit 1515 with his feet up and his hat pulled down over his eyes. He did not respond when the Supervisor shone a flashlight in his face, but did respond when his Foreman knocked on the window of the Unit. The Claimant advised the Foreman that he was on medication for back pain, which had made him drowsy, and that he was "laying back" in the cab seat. The Foreman immediately removed him from service.

Earlier that same week, the Claimant had been found in an off-limits area when he should have been working, and had been involved in a dispute with another employee, who had then refused to continue working with him. As a result of these incidents, by letter of May 20, 1986, the Claimant was charged with:

- "1. Sleeping on the job Sunday, May 18, 1986, in the engineers' chair on Unit 1515, between 1855 and 1920 hours.
2. Violation of Rule 3(b) of the GT General rules, which states, 'Employees shall not report for nor be on duty at any time, under the influence of intoxicants or any other substance whatsoever (including those prescribed for them for medical reasons), that will in any way adversely affect their alertness, coordination, reaction response or ability to work properly or safely.' Said violation occurred on Sunday, May 18, 1986.
3. Failure to fulfill your assignment when you failed to assist machinist Pitre in the operation of the drop table on Thursday, May 15, 1986, at approximately 1600 hours.
4. Failure to protect your assignment on Thursday, May 15, 1986, when you were absent from your assignment, of assisting Machinist Kujawa at approximately 1900 hours, at which time you were found sitting in the Engineers' Booking-in room."

When questioned if he had been sleeping, the Claimant answered at the hearing:

"I would like to answer the statement as not sleeping due to the fact I was on medication as I had discussed earlier.

* * * *

I was just sitting and which I had my hat pulled over my eyes waiting for the affect of the medications to take affect."

In addition, the Organization contended that the Carrier's Supervisors, "...did not determine that Machinist Podlasek was asleep. They only established that he was in the cab sitting with his cap pulled down over his eyes..."

This Board finds that the affirmation of the Claimant and the Organization that he was "laying back" in his seat with "my hat pulled down over my eyes," but was not asleep, is a distinction without a difference. Further, since the Claimant had acknowledged that he was not feeling well and that his medication was making him drowsy, he had a responsibility to inform his supervisor and report off duty. The safety of all employees is at risk when even one employee works under the influence of prescription medication that may cause drowsiness (Second Division Awards 9177, 9170, 8278).

It has been consistently held that sleeping while on duty is a dis-
missible offense (Second Division Awards 8886, 8537). Further, the Carrier
has a right to expect that all employees be present at their assigned work
stations and performing their assigned duties. In determining discipline in
cases such as this, the Carrier does have a right to consider the past em-
ployment record, which, in the case of this Claimant, is less than exemplary.

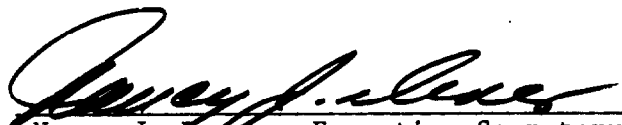
Based on the evidence presented, we find the Carrier's disciplinary
action justifiable.

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 22nd day of March 1989.