

The Second Division consisted of the regular members and in addition Referee Donald E. Prover when award was rendered.

(International Association of Machinists and
(Aerospace Workers
PARTIES TO DISPUTE: (
(Illinois Central Railroad

STATEMENT OF CLAIM:

1. That the Illinois Central Railroad violated the current and controlling Agreement between the International Association of Machinists and the Illinois Central Railroad dated April 1, 1935, as subsequently revised and amended, when it harshly and unjustly disciplined (suspended from service on April 27, 1989, for 15 working days) Machinist G. F. Viall because allegedly:

- (1) You left work without proper authority,
- (2) Whether or not you properly performed your duties and,
- (3) Whether or not you falsified time worked on shift starting at 10:30 p.m., April 3, 1989, through 6:30 a.m., April 4, 1989.

2. That the Illinois Central Railroad make Machinist Viall whole for any and all losses incurred as result of the investigation conducted on April 14, 1989, and clear his service record of all reference to the incident.

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.

Claimant was assigned to work as a machinist at the Carrier's Glenn Yard facility from 10:30 P.M. on April 3 until 6:30 A.M. on April 4, 1989. The General Foreman made a visit to the Glenn Yard facility at approximately 4:10 A.M. on April 4, 1989. He could not locate the Claimant and found work that should have been done was not done. The General Foreman left the area at 6:10 A.M. without ever encountering the Claimant. Claimant reported that he worked a full eight hours.

Under date of April 7, 1989, Claimant was advised to attend an Investigation and was charged as follows:

- "1. You left work without proper authority,
2. Whether or not you properly performed your duties, and
3. Whether or not you falsified time worked on shift starting at 10:30 p.m., April 3, 1989 through 6:30 a.m., April 4, 1989."

Following the Investigation Claimant was suspended fifteen working days for leaving work without permission, failing to perform his duties, and falsifying the amount of time worked.

From our review of the Investigation we find it was conducted in a fair and impartial manner.

The Organization basically argues that Claimant was innocent, the charges were not sustained and Claimant was unjustly dealt with.

At the Investigation Claimant testified that between 4:10 A.M. and 6:10 A.M. he was in the area changing 6 brake shoes on two engines and that he did not leave work early. The General Foreman stated that he was at the Glenn Engine House and looked at all the engines and could not find Claimant anywhere between 4:10 A.M. and 6:10 A.M. The General Foreman found several locomotives that had not been inspected or serviced. These locomotives should have been inspected and serviced by Claimant.

In reviewing the Investigation testimony we find conflicting stories. We carefully reviewed Claimant's testimony as to what he was allegedly doing between 4:10 A.M. and 6:10 A.M. If, as he stated, he was changing 6 brake shoes on two locomotives between 4:10 A.M. and 6:10 A.M. he would have been observed by the General Foreman. We are unable to find Claimant's explanation of his whereabouts during the early morning of April 4 to be creditable. Accordingly, we find no reason to disturb the discipline assessed in this case. See Second Division Awards 7350 and 7542.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 1st day of August 1990.