

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
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(Missouri Pacific Railroad Company

STATEMENT OF CLAIM:

1. That the Missouri Pacific Railroad Company is violative of Rule 32 of the June 1, 1960 controlling agreement and has dealt unjustly with and damaged Crane Operator P. A. Park at DeSoto, Missouri when they denied him a fair and impartial investigation, resulting in the unjust and improper discipline of ten (10) actual days suspension and thirty (30) days deferred suspension by letter dated March 1, 1989.

2. That, accordingly, the Missouri Pacific Railroad Company be ordered to make Crane Operator P. A. Park whole for all seniority rights, vacation rights, holidays, health and welfare benefits and all other benefits that are a condition of employment that may have been impaired as a result of the assessed discipline, and to compensate Crane Operator P. A. Park: (a) eight (8) hours at the straight time rate, five (5) days a week beginning March 1, 1989 and continuous to March 10, 1989, inclusive; and, (b) eight (8) hours at the straight time rate March 11, 1989 through March 15, 1989, inclusive, for being held out of service in excess of the discipline assessed - the ten (10) days actual suspension; and, (c) in addition to the money amounts claimed herein, the Carrier shall pay Mr. Park an additional amount of 6% per annum compounded on the anniversary date of the claim; reverse in its entirety the discipline of thirty (30) days deferred suspension assessed Mr. Park on March 1, 1989; and, Mr. Park's record be completely cleared of the discipline of ten (10) days actual suspension and thirty (30) day deferred suspension.

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.

Following an Investigation held on February 23, 1989, Claimant was adjudged to be negligent in the performance of his duties when operating an overhead crane on January 25, 1989. He was assessed discipline of the ten days actual suspension and thirty days deferred suspension. The assessment of this discipline is appealed to this Board on a variety of grounds.

We have examined the transcript of the Investigation and conclude that adequate evidence was developed so as to establish Claimant's responsibility for the incident. Accordingly, assessment of discipline was not inappropriate. However, the amount of discipline assessed appears to be excessive. In the circumstances present here, it would seem that appropriate discipline would be five working days suspension. We will order that the discipline assessed be reduced to five working days and that Claimant be paid lost wages beyond that time.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 20th day of February 1991.