

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

PARTIES TO DISPUTE: (Sean R. Sinnott
(
(Chicago & North Western Transportation Company

STATEMENT OF CLAIM:

1. Whether the written request that formal investigation or hearing be waived that was signed by Sean R. Sinnott on October 10, 1989 was obtained by CNWT in accordance with the July 1, 1979 Agreement between Chicago and Northwestern Transportation (CNWT) and the International Association of Machinists and Aerospace Workers (I.A.M.A.W.).

2. If the written request that formal investigation or hearing be waived that was signed by Sean R. Sinnott on October 10, 1989 was not obtained in accordance with the July, 1979 Agreement between the CNWT and the I.A.M.A.W., to what remedies is Sean R. Sinnott entitled.

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 were given due notice of hearing thereon.

The Claimant was served notice of Investigation for sleeping on duty on October 3, 1989. Thereafter, a meeting was held between Claimant and a Carrier Representative to discuss the pending Investigation.

A waiver of Investigation was executed resulting in the assessment of a five day actual suspension and disqualification from position of Mechanic-In-Charge.

Subsequently, a Claim was filed alleging that the waiver of Investigation was not consistent with the provisions of the July 1, 1979, Agreement between the Organization and the Carrier.

After thoroughly reviewing the record the Board concludes that the July 1, 1979 Agreement was not violated. The Claimant voluntarily signed a waiver. By so doing he accepted the discipline at bar. In accordance with Rule 35(i)(5) of the Agreement discipline accepted in this manner is not subject to appeal by the employee or the Organization.

The Claim must be dismissed (see, First Division 16675; Third Division 22645, 24869, 26345, 27043).


It should also be noted that the Claim advanced in this case was not progressed in a timely manner. Therefore, irrespective of the merits of the case, a Claim such as this would be barred from further consideration due to a time limit violation.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 16th day of October 1991.