

The Second Division consisted of the regular members and in addition Referee Kay McMurray when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
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(Florida East Coast Railway Company

STATEMENT OF CLAIM:

1. That at New Smyrna Beach Locomotive Shop, on October 24, 1990, with reference to Electrician J. R. Thompson's formal investigation, Carrier assessed discipline of twenty (20) days actual suspension, November 7-December 4, 1990. The Florida East Coast Railway Company has violated the controlling agreement, and particularly Rule 26, Discipline Hearings alleging that formal investigation conclusively developed that Electrician J. R. Thompson failed to properly perform his duties when he failed to check AR-10 even by looking through the glass insert on the cover; for had he done so he would have detected that a wire was burned off a fuse on a buss bar.

2. That Electrician J. R. Thompson be compensated eight (8) hours for each regular assigned work day beginning November 7 - December 4, 1990, at the pro rata rate for all lost wages, be made whole for all vacation rights, made whole for all health and welfare and insurance benefits, made whole for all pension benefits, including Railroad Retirement and Unemployment Insurance, and made whole for any other benefits that Claimant would have earned during the time he was held out of service, and personal record he completely cleared.

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.

On July 27, 1990, Diesel Engine 425 was brought to the New Smyrna Beach Locomotive Shop for a usual P-12 Inspection. General Foreman, James Church, assigned the Claimant to the inspection. Mr. Church advised Claimant that when the locomotive was brought in he made several moves with it and noticed that the engine overloaded in amperage. Normally, when throttles were advanced the amperage would read around 200 but the engine on 425 loaded up rapidly to 500 and 600 amps, causing a very quick take off. This pointed to an electrical problem and the Foreman verbally described the situation to the Claimant. He was told to inspect the diodes and fuses and look in the back of the AR-10 generator. During the inspection period, July 27 - August 1, 1990, Claimant signed off on the appropriate form indicating that the work had been accomplished and everything was in order. On August 1, the planned completion date of the inspection, General Foreman, T. N. Iltopoulos, was moving Locomotive 425 from #2 pit to the washrack, when he noticed that the amp meter was higher than normal, about 500-700 amps. He was accompanied in the cab by another Foreman and the Claimant. He asked the Claimant if he had inspected the AR-10 main generator for burned fuses and diodes. Claimant responded that everything is OK in the generator and that he had told everybody concerned. The Shop Superintendent was then asked to trouble shoot and repair the overloading problem on Locomotive 425. A test, first conducted by Claimant and then jointly by the Shop Superintendent and the Claimant, failed. Accordingly, the Shop Superintendent was assigned the task of repairing the overload problem. Early on the following day, August 2, he inspected the AR-10 - D14 generator assembly and noticed through the inspection window that the dome wire lugs were burned off. He removed the left inspection cover and found B1, J2 wire lug and the mounting bolt burned off the left fuse buss bar. The repairs were completed and the overloading problem was eliminated. The locomotive was returned to service August 2, one day later than planned. Claimant was charged with failing to properly perform his duties as an Electrician and following mutually agreed delays the Hearing proceeded on October 24, 1990. In a timely manner after the Hearing, Claimant was assessed the penalty herein complained of.

The Organization raises the defense that the Claimant did not receive a fair and impartial Hearing because of the manner in which the tapes of the Hearing were transcribed. It notified the company that their information revealed that the transcriber was being assisted by supervisory employees. An Investigation by the Carrier revealed that the transcriber had in fact asked two of the witnesses to proofread a portion of their testimony to insure accuracy because the tape was difficult to understand. In order to avoid further complications, the tapes from this and other Investigations were removed from New Smyrna to St. Augustine to be transcribed by General Office personnel. The Carrier refused the Organizations request for an independent transcriber but did furnish a copy of the transcripts and made the tapes available for review at the General Offices during normal working hours. The Organization made no effort to review the tapes. Having declined the opportunity to check the tapes and transcript for accuracy, it cannot now claim that the transcription is inaccurate. We find that the Hearing was conducted in the normal manner and was fair and impartial.

The transcript and file in this case is quite voluminous. There are some disagreements in the testimony of the witnesses. This Board is in no position to judge the credibility of witnesses and must make its decision on the credible evidence in the record.

The record reveals that Locomotive 425 came into the inspection site on July 27. Among its problems was an amperage overload which all parties agree indicated an electrical problem. Claimant inspected the generator assembly and found it in working order, signed off on the proper form, and also verbally informed Supervisors that the work was accomplished. On August 1, the date for the inspection to be completed, the overload problem still existed. A shop Superintendent was assigned the task of repairing the overload problem. On the morning of August 2, he inspected the generator assembly and noticed through the window that a problem existed. He removed the left inspection cover and found the wire lug and the mounting bolt burned off the left fuse buss bar. Repairs were made and the locomotive operated properly. It was released for service that day - one day longer than planned for the inspection.

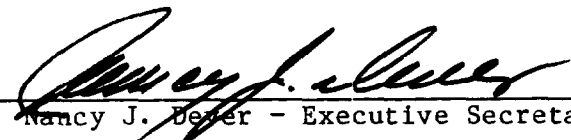
From the foregoing and the entire record, we conclude that the Claimant did fail to perform his duties as required by the operation. We also find the penalty not to be capricious, arbitrary, or overly severe.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of September 1992.