

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12834
Docket No. 12812
95-2-93-2-178

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

(The Brotherhood Railway Carmen Division of
(Transportation Communications
(International Union
PARTIES TO DISPUTE: (
(The Springfield Terminal Railway Company
((Maine Central Division)

STATEMENT OF CLAIM: "Claim of the Committee of the Union that:

- (1) Carrier violated the agreement when as a result of an investigation held July 15, 1992, Charles Philbrick was issued 30 day suspension.
- (2) Carrier shall now compensate Charles Philbrick for all lost wages and benefits and expunge his record of this discipline."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 thereon.

On June 26, 1992, six Carmen were working the day shift at the Waterville Car Shop. Before the quitting hour the Carrier determined it had need for the service of all six to continue past the quitting time. Three employees accepted the overtime, three did not. Claimant was one of the three who refused.

At the end of the shift each of the three, who had declined the overtime was again approached by the Supervisor and ordered to work. Again, all three refused. (What fate befell the other two is unknown as they were never again referenced in the on-property handling.)

Claimant was served a timely notice of charges which read, in part;

"...Any act of insubordination... will not be condoned and is sufficient cause for dismissal.

To be specific, these charges stem from the June 26, 1992 incident in which you refused a direct order from your Assistant Manager..."

The hearing was held and claimant was found guilty of committing an insubordinate act. He was assessed 30 days actual suspension from service based upon the act itself and his past record. (See Awards 26 and 42 of PLB No. 4623.)

The old but still valid adage of "obey now, grieve later" is most fitting in this dispute.

The discipline must stand despite the valiant arguments of the Organization in an all out effort to nullify or at least mitigate the discipline. The Organization contended Carrier violated Public Law 102306, and various rules of the agreement. These arguments must be rejected. The hearing was to determine if Claimant refused an order from his Supervisor to work. Clearly, he did.

AWARD

Claim denied.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

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By order of Second Division

Dated at Chicago, Illinois, this 26th day of January 1995.