

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 13084
Docket No. 12973
96-2-94-2-127

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

(International Brotherhood of Electrical
(Workers
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former
(Seaboard Coast Line Railroad Company)

STATEMENT OF CLAIM:

- "1. That at Waycross, Georgia, on September 3, 1993, CSX Transportation, Inc. (SCL) violated the controlling agreement, particularly Rule 32, when Mr. F. A. Upton, Plant Manager placed a formal letter of reprimand on Electrician J. L. Harper's personal record file as a result of formal investigation held August 3, 1993, alleging, 'you have been found guilty of failing to complete assigned work on June 3, 1993. The investigation clearly indicated an unwillingness to follow instructions evidenced by your statement to supervisor Lairsey that the work assigned to you be left for the next shift rather than performed as instructed. You then left your assignment prior to shift end even though the work assignment had not been completed.'
2. That Electrician J. L. Harper's personal record file be cleared of all mention of the subject relative to formal investigation held August 3, 1993."

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 were given due notice of hearing thereon.

At the time this case arose, Claimant was assigned as an Electrician in a locomotive repair shop at Waycross, Georgia. By letter of June 19, 1993, Claimant was notified to appear for an Investigation to "...determine the facts and place responsibility, if any, in connection with [his] failure to comply with instructions given [him] by 700 supervisor L. E. Lairsey on June 4, 1993...." Following the Hearing, Claimant was notified that a letter of reprimand would be placed in his personal record file. The discipline was appealed and progressed in the usual manner.

It is the position of the Carrier that Claimant directly disobeyed a Supervisor's order to perform work. The Organization maintains that the Claimant used his best judgment, and completed his most important work, which did not include the directive the Relief Supervisor gave him.

In most cases involving failure to obey orders, absent an employee's honest fear for his safety, an employee is enjoined from substituting his judgment concerning his work for that of his Supervisor. Succinctly put, the well-accepted "rule of thumb" is "Obey now, grieve later." In Second Division Award 5167, the Board found that the Claimants involved had not complied with an "unambiguous and reasonable instruction" that they had been given. Accordingly, he denied their claim. In the case before this Board, however, Carrier failed to prove that Claimant disobeyed such an instruction. A careful review of the transcript indicates that the communication between the Relief Supervisor and the Claimant regarding the work in question was, at best, imprecise and muddled. Moreover, Carrier did not refute the Organization's position that Claimant could not have obeyed the order allegedly given, even had he attempted to do so, because of the disparate location of the work at issue, and the time remaining on his tour of duty. Thus, the instant claim is sustained.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 9th day of December 1996.