

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24066
Docket Number MW-24087

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it suspended Welder Helper H. L. Robertson and Laborer A. Golden from service for two (2) hours on June 12, 1979 without benefit of a hearing (System File C-4(13)-HLR/AG; 12-39(80-8) J).

(2) The claimants each be allowed two (2) hours of pay at their respective straight-time rates because of the aforesaid violation."

OPINION OF BOARD: Claimants were employed at Carrier's Rail Welding Plant with assigned hours of 3:30 P.M. to Midnight. On July 12, 1979 Claimants, according to Carrier, did not report until after the safety rule of the day had been read and the work was underway. Carrier asserts that the men were over six minutes late, whereas Petitioner claims that they were "over two minutes" late. The two employees were assigned to work at about 5:30 P.M. and were read the safety rule at that time. The Claim herein was triggered by their loss of two hours' work.

Petitioner maintains that the two employees were disciplined by being withheld from work without benefit of an investigation and hence their Claims are justified. Carrier, on the contrary, denies that there was indeed any discipline involved and states that the two men were treated similarly to other employees reporting late at the particular facility. Carrier explains that the men normally worked on an automated assembly line approximately one-half mile long. On the day in question the Foreman had to arrange the forces present and supervise the start-up on the line in a timely fashion. He did not have time to stop and re-arrange the forces on the line when late employees straggled in.

An examination of the record reveals no evidence to contradict the Carrier's position that the Claimants were treated consistently with other employees reporting for work late at the Welding Plant. Further, Petitioner's reliance on an ambiguous statement by the Foreman involved is not persuasive, particularly since it contradicted an earlier version of the same incident authored by the same supervisor. At best, the two statements are contradictory, from the Union's point of view. In sum, there is no significant evidence to indicate that the Claimants were indeed disciplined. On the contrary, they were treated consistently with other employees and that treatment cannot be considered to be punitive. The fact is that the two men did not meet their obligation to report to work on time and suffered normal consequences of that deficiency.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of December 1982.

