

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12089
Docket No. 11836-I
90-2-89-2-139

The Second Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (Glenn E. Jones
(
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

On December 15, 1988, I was unjustly dismissed from Chicago and Northwestern Transportation Company. On 5-24-89, I was reinstated with all rights restored. I was not paid for time lost. I am making a claim for all time lost including holiday pay plus 6% interest on all wages.

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 record in the instant case indicates that Claimant was the Senior Coach Cleaner assigned on the night of November 20, 1988, and ordered to clean a late train arrival. By Notice dated November 21, 1988, Claimant was directed to appear for a formal Investigation to determine his responsibility, if any, for failure to comply with that order.

The facts at bar support the Carrier's finding of guilt. A review of the Investigation held on December 2, 1988, finds that the Assistant Car Foreman did order the Claimant to work overtime to assure the late arrival was clean. It was a clearly understood direct order. The testimony of the Claimant is that he said no. By his own admission, the Claimant refused. The Claimant's dismissal for insubordination was supported by the evidence of record.

The Claimant has provided additional argument and evidence which was not raised during the Investigation. The Claimant has further argued that some of the testimony presented was false. Such argument comes too late for proper consideration, but even if it were accurate, it would not change the Board's position. Insubordination often results in permanent dismissal. The Claimant must obey the direct order and grieve later if he feels a problem exists. He did not do so in the instant case. The fact that junior employees were available is not relevant when considered in the context of the refusal to comply with a direct order.


Claimant was guilty of insubordination. Dismissal was warranted. Reinstatement was made on a leniency basis with the right to progress this Claim for time lost. There is nothing in the record that shows discriminatory action toward the Claimant. There is no evidence of mitigating factors in the admitted insubordination. After full consideration of all facts, the Board denies the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1991.