

Referee David Dolnick

PARTIES Railroad Yardmasters of America
TO
DISPUTE: St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: Claim and request of Railroad Yardmasters of America that:
Yardmaster R. R. Klinker's personal record be cleared of all charges, and paid for all time lost, including rest day, vacation and sick pay allowances due to suspension from service for 30 days on March 29, 1975, assessed as discipline.

OPINION OF BOARD: On March 28, 1975, after an investigation, Carrier advised Claimant as follows:

"This notice of discipline assessed or other special entry made to your service record as follows:

"Discipline or Special Entry 30 Days Suspension effective March 29, 1975.

"Cause For your responsibility as developed in hearing conducted in Springfield, Missouri, on March 24, 1975, in connection with alleged failure to properly move Central Division tonnage from Trains TYCY-1 of March 5, 1975 and No. 35 of March 5, 1975, as directed to do by the Superintendent R. L. Akins on March 6, 1975 resulting in approximately 24 cars being delayed, which is in violation of that part of Rule 702 reading 'Employees who are negligent, or indifferent to duty insubordinate . . . will not be retained in service' and that part of Rule 827 under heading 'Yardmasters' reading 'They are responsible for the making up of freight trains with proper tonnage and will have train properly classified, checked and inspected before leaving time.'"

A careful reading of the investigation transcript shows, without any serious contradiction, that the Claimant failed to completely carry out the order of the Superintendent. He did not do so intentionally. It is not clear exactly why the cars intended for Train No. 731 were not switched to that train. The fact is that Train No. 731 was not called for 4:00 P.M. as instructed. The responsibility was clearly on the Claimant who was on duty and so instructed.

Section crews were working in the yard on that date. Certain tracks were tied up. But that condition in the yard existed for approximately six months.

The record indicates that everyone in the yard, including the claimant, was under pressure. Even the Superintendent had worked through 24 hours. The mistake was not deliberate. Claimant is a capable yardmaster with a good work record for about 30 years. The unfortunate happening was probably occasioned by the pressures and the disorder in the yard.

Petitioner argues that at most Claimant can be charged with an error of judgment. If so, the assessed penalty is too severe, particularly in view of the conditions in the yard.

There is substantial evidence in the record to support disciplinary action. There is also no evidence in the record that the Carrier was arbitrary, capricious or discriminatory. That being so, we have no right to substitute our judgment for that of the Carrier and we have no right or power to modify or reverse the decision.

FINDINGS:

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

The carrier and the employe involved in this dispute are respectively carrier and employe 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.

The parties to said dispute were given due notice of hearing thereon.

The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:

Executive Secretary
National Railroad Adjustment Board

By: 
Assistant Executive Secretary

Dated at Chicago, Illinois, this 7th day of April 1976.