

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Award No. 25292

Docket No. 45051

02 1 00 1 U 2234

The First Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Locomotive Engineers
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

"Claim of Engineer James R. Coleman for removal of discipline, requesting immediate reinstatement, claiming full back pay (including time attending the investigation), fringe benefits, vacation and seniority rights unimpaired, and clearing this notation of discipline from Engineer Coleman's record."

FINDINGS:

The First 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.

On April 21, 2000, the Carrier dismissed the Claimant as a result of an Investigation held April 14, 2000. The Carrier found that the Claimant violated Rule 1.6 by falsifying electronic time slips on April 3 through April 6, 2000 while working as an Engineer on Local LWL60 and LWL61 at Wynne, Arkansas.

The record reveals that the Claimant and the Conductor were observed by Carrier Auditors on April 3 through April 6, 2000. The following chart shows the amount of time claimed for initial terminal switching as opposed to actual time observed:

Form 1

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<u>"Date</u>	<u>ITS Claim</u>	<u>ITS Observations</u>	<u>Overstatement</u>
April 3, 2000	3:35 (\$50.67)	1:48 (\$25.45)	1:47 (\$25.22)
April 4, 2000	4:20 (\$61.27)	1:40 (\$23.56)	2:40 (\$37.71)
April 5, 2000	3:30 (\$49.49)	1:41 (\$23.80)	1:49 (\$25.69)
April 6, 2000	5:10 (\$73.06)	2:58 (\$41.95)	2:12 (\$31.11)"

The Claimant has 27 years of service. The excuse used for the disparity in times is that the times were a guesstimate. The Claimant is required by Rules to have a watch, which he testified he had. An employee with 27 years of service knows better than to guesstimate times on a time slip.

The Carrier has met its burden in proving the Claimant violated its Rules. Both the Claimant and the Conductor were terminated. In Public Law Board No. 6099, Award 89 the Conductor was returned to work without pay for the time lost. The decision was without dissent by the Carrier.

The Claimant has had an extensive career with the Carrier, and this is the first disciplinary action where the Claimant lost time. The Claimant was foolish to risk his employment for a few extra dollars. We will return the Claimant to service without pay for time lost, and with a warning that any future misconduct of this nature will not be treated with leniency.

AWARD

Claim sustained in accordance with the Findings.

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.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

Dated at Chicago, Illinois, this 17th day of January, 2002.