

The First Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

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PARTIES TO DISPUTE:

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(Red River Valley and Western Railroad Company

STATEMENT OF CLAIM:

"Said wrongful discharge occurred subsequent to my comment and complaint of violations of safe operating procedures in the course of my employment as an engineer. As well, my discharge was completely devoid of stated Red River Valley and Western employment policy.

I seek remedies of job reinstatement with back pay, or in the alternative, back pay dating from the date of discharge to the decision of this forum. I also seek such other and further relief as the Adjustment Board may deem just and equitable.

The specific question upon which I seek an award is whether I was wrongfully discharged."

FINDINGS:

The First 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 waived right of appearance at hearing thereon.

On February 25, 1988, the Carrier discharged the Claimant. Thereafter on March 5, 1988, the Claimant wrote to the Regional Director of the Federal Railroad Administration concerning "...violations of federal laws pertaining to safe railroad operations, by the Red River Valley and Western Railroad (RRV&W)...." The record also shows that the Claimant had been in contact with the FRA Safety Inspector on and after February 26, 1988.

We have considered the Claimant's case, seeking reinstatement and backpay under the "Whistleblower Act" 45 U.S.C. 441 (a) (1) and 441 (b) (1) (C). This law protects employees from discharge or discrimination by their employers because they filed a complaint, or instituted proceedings related to Federal Railroad Safety Laws or testified in any such proceedings. In the instant case, the Claimant did not contact the FRA Safety Inspector or file his complaint or institute proceedings related to Federal Railroad Safety Laws until after he had been discharged. And, the record is clear that the Claimant was not discharged because he refused to work under hazardous conditions. We are compelled to conclude that the plain meaning of the statutory language of 45 U.S.C. 441 does not extend protection to an individual who does not file his complaints related to Railroad Safety Laws until after his discharge.

No collective bargaining Agreement is in effect on this property and therefore there is no Agreement rule for this Board to interpret relative to his discharge.

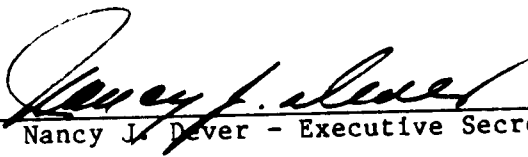
We are compelled to dismiss this Claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of First Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 6th day of February 1991.