

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10191
Docket No. 9658
2-SCL-CM-'84

The Second Division consisted of the regular members and in addition Referee Ida Klaus when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada - AFL-CIO
(
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That the Seaboard Coast Line Railroad Company violated the terms of the controlling agreement when Master Mechanic, M.C. Coley suspended W. A. Wiley from service beginning October 17, 1979 through December 15, 1979, based on Rules and Regulations of the Mechanical Department, Rule 12 (vicious or uncivil conduct, insubordination...).
2. That under the terms of the controlling agreement Carman W. A. Wiley, Hialeah Shop, Hialeah, Florida, Seaboard Coast Line Railroad was unjustly suspended from the Carrier's service on October 17, 1979.
3. That under the terms of the controlling agreement Carman W. A. Wiley did not receive a fair investigation on October 25, 1979.
4. That accordingly, the Carrier be ordered to make Carman W. A. Wiley whole by compensating him eight (8) hours at straight time rate of pay for each day held out of service and all overtime he would have made and all other benefits accruing to his position for this violative sixty day suspension.

FINDINGS:

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

The carrier or carriers and the employ or employees involved in this dispute are respectively carrier and employees 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.

The Claimant was suspended for 60 days on charges of not obeying his supervisor's orders and by shouting insults and abusive language at the Carrier's special agents.

On October 16, 1979 the Claimant was told by his supervisor to leave the area in which he was standing and return to his job site. At the time, they were standing near where two special agents were escorting another employe off the property. After the supervisor gave his order, the Claimant walked on some 60 feet. As the special agents moved past, the Claimant shouted at the group. The Carrier asserts that the Claimant shouted abusive and uncivil insults at the special agents, while the Claimant maintains that he shouted a warning to the escorted employee that he should go quietly off the property.

The Carrier's position is that the Claimant disobeyed his supervisor's orders so that he could remain in the area and shout at the special agents. The Carrier justified the 60 day suspension on the Claimant's record of numerous violations of the Rules and Regulations.

The Organization argues that the Claimant did nothing wrong; if he had, it asserts, he would have immediately been taken out of service, rather than later in the day. Moreover, the Claimant did not disobey his supervisor's orders to return to his job, but had begun to obey the instructions when the agents passed by. In addition, the Organization maintains that the Carrier's Rules are unreasonable and that the investigation was unfair.

The Board finds that the evidence presented is insufficient to sustain the charge that the Claimant failed to obey his supervisor's orders. According to the supervisor's own testimony, the Claimant had moved some 50 or 60 feet toward his work site a minute or two after his instructions.

We do find, however, that the Claimant was insubordinate in his conduct toward the special agents. The weight of the evidence supports the position that the Claimant shouted abusive and uncivil insults at the agents. Accordingly, we find that the charge of insubordination has been sustained. The Organization's position that the Claimant would have been immediately removed from service is plainly without merit. Neither are we able to agree that the Carrier's rule prohibiting insubordination is unreasonable.

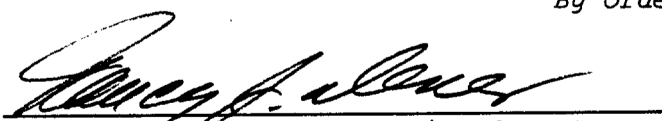
It is a serious offense to undermine the authority of a special agent. In view of this offense and the Claimant's record of numerous prior violations of Carrier rules, the 60 day suspension was reasonable.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of January 1985.