

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12592
Docket No. 12567
93-2-92-2-96

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical
(Workers
(
(Maine Central Railroad/Springfield Terminal
(Railroad Company

STATEMENT OF CLAIM:

"Appeal of the suspension from service of ninety (90) calendar days, commencing on January 8, 1992 through April 6, 1992, that the Maine Central Railroad Company/Springfield Terminal Railroad Company assessed against Electrician Theodore H. Croteau, Jr. by a letter (notice) dated February 3, 1992."

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 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.

Parties to said dispute waived right of appearance at hearing thereon.

An Investigation was held in connection with a charge that the Claimant refused to comply with a direct order by his manager on January 7, 1992. The Manager testified at the hearing held on this matter that he requested the Claimant to categorize parts in the storeroom. The Claimant refused to comply and he was taken out of service at that time. Subsequently, he was suspended for 90 days. This suspension is now the matter before this Board.

This case has resulted in a voluminous file including a lengthy hearing transcript which has brought forth issues and concerns that have no bearing on the matter to be decided and tend to obscure the controlling issue; namely, was a proper order given

and, if it was a proper order, did the Claimant comply with the order? We find that the Claimant was properly asked to perform certain assigned duties. He clearly understood what he was being asked to do. He was warned of the consequences of continued refusal to perform the work assigned by his Supervisor. The Claimant was simply wrong in his persistent refusal. Of all people, given his position in the Organization and his many years of experience, he had no reason not to adhere to the well-established principle "obey now, grieve later." The employee does not have the right to debate orders given by proper authority, as we find in this case.

In many situations, clear insubordination may properly lead to dismissal from the service. Therefore, a penalty of 90 days discipline, in many instances, cannot be considered unduly harsh. However, this case is distinctive because the Claimant does have 40 years of exemplary service. We conclude, without minimizing the seriousness of his offense, that, given this fine record, the discipline should be lowered to a 45 day suspension.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 15th day of September 1993.