

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

Parties to Dispute: (System Federation No. 99, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Firemen & Oilers)
(
(Illinois Central Gulf Railroad Company

Dispute: Claim of Employee:

1. That Laborer F. D. Golden was unjustly dismissed from service on January 21, 1977 following an investigation which was held on January 18, 1977.
2. That accordingly, the Illinois Central Gulf Railroad be ordered to return Laborer F. D. Golden to work immediately, with pay for all time lost, restoration of full seniority and all benefits he would have been entitled to.

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.

Claimant was dismissed, following investigation, for threatening a foreman and for insubordination. The record discloses that Claimant was on leave of absence because of injuries incurred in an auto accident. On January 5, 1977, the General Foreman received a call from Claimant's wife reporting that Claimant would be reporting for work for the 11:00 p.m. to 7:00 a.m. shift. The Foreman asked whether Claimant had secured a release from his doctor. When told that Claimant had no such release, the Foreman informed Claimant's wife that Claimant could not return until he had such release.

At about 10:30 p.m. that same day, Claimant entered the office, shouting and complaining that his locker had been entered while he was on leave. He also displayed a gun. He telephoned the General Foreman, using loud and foul language. After a Special Agent arrived, the Claimant left after informing those present that he had a shotgun which he was going to use on the General Foreman.

The next morning, Claimant twice telephoned the General Foreman, insisted that it was the latter's responsibility to return his property and threatened him. The threat was heard over a telephone extension by a city policeman, who attested to the incident. Claimant was notified by the General Foreman that he was out of service because of his actions, pending an investigation, and that he was not to enter upon company property.

Later that same day, Claimant entered the General Foreman's office and, in loud and abusive language, demanded his property. Claimant was then arrested by a city policeman for threatening the General Foreman.

Claimant had been advised that his complaint about his missing property had been referred to the proper authorities and was being investigated. He had been advised that he was not to come onto company property because of his behavior (including possession and display of a firearm on company property). Nonetheless, Claimant appeared on the property, entered the Foreman's office, and repeated his loud and abusive demands.

Claimant's conduct cannot be justified. Claimant deliberately and willfully threatened the General Foreman, used abusive language, and came onto company property after being instructed that he was being held out of service pending an investigation of his behavior--all actions tantamount to an act of insubordination. This Board has upheld the right of Carriers to dismiss employees who bring firearms onto company premises. The record supports the dismissal. We fail to find any reason for interfering with Carrier's action in dismissing the Claimant from its service. We will, therefore, deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 19th day of April, 1979.