

Parties to Dispute: { International Association of Machinists and
Aerospace Workers
{ Consolidated Rail Corporation

"While on duty, as Maintenance Machinist at Morrisville, Pa., at approximately 8:15 AM on June 26, 1979, you were:

A. Insubordinate to General Foreman J. T. Steinbeiser.

B. Threatened General Foreman J. T. Steinbeiser with bodily harm."

In notice dated July 18, 1979, the Claimant was notified that he was disciplined by "Suspension June 26, 1979 to July 18, 1979, inclusive" for the offense with which he had been charged.

A close study of the entire transcript reveals that Claimant received a fair and impartial hearing at the trial held on July 6, 1979. The Organization contends that the Carrier violated the Claimant's rights by holding him out of service pending trial. This Board cannot agree with this contention. Numerous awards by this Board have held that the Carrier has a right to determine whether an employe charged with a serious violation of the rules shall be held out of service pending the investigation. Rule No. 7(e) provides an employe shall be made whole for time lost if exonerated. Therefore, the Claimant was not deprived of any rights guaranteed him by the Agreement.

The records disclose substantial evidence to warrant the findings of the Carrier. There was some conflict in the evidence cited by Claimant's fellow employes. However, the Board has uniformly held that the credibility of the witnesses and the weight to be given to their testimony is for determination by the hearing officer. The Board, after careful deliberation, is unable to find that the judgement of the Carrier on the penalty assessed was arbitrary, capricious or in any way an abuse of managerial discretion.

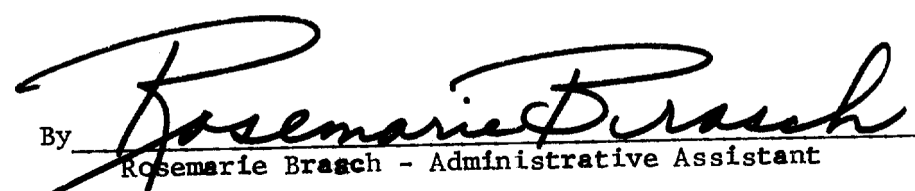
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 10th day of February, 1982.