

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(National Railroad Passenger Corporation

Dispute: Claim of Employees:

1. That under the current Agreement the National Railroad Passenger Corporation (Amtrak) unjustly dismissed Electrician Henry Palmer from service effective April 30, 1981.
2. That accordingly, the National Railroad Passenger Corporation (Amtrak) be ordered to restore Electrician Henry Palmer to service with seniority unimpaired and with all pay due him from the first day he was held out of service, at the applicable Electrician's rate of pay for each day he has been improperly held from service; and with all benefits due him under the group hospital and life insurance policies for the aforementioned period; and all railroad retirement benefits due him, including unemployment and sickness benefits for the aforementioned period; and all vacation and holiday benefits due him under the current vacation and holiday agreements for the aforementioned period; and all other benefits that would normally have accrued to him had he been working in the aforementioned period in order to make him whole; and to expunge his record.

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 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.

Prior to the occurrence giving rise to the claim herein, claimant was employed as an electrician at Carrier's Albany/Rensselaer Maintenance Facility, having entered Carrier's service on September 17, 1976. On April 14, 1981, claimant was involved in the killing of a duck that entered the Carrier's facility. On April 20, 1981, claimant was instructed to appear for an investigation to be conducted at 2:00 P.M., April 23, 1981, on the charge:

"Violation of Rules I, J, K and Y in the Amtrak Rules of Conduct in connection with your actions during your tour of duty on April 14, 1981."

The investigation began on the date and at the time scheduled. At the beginning of the investigation, claimant's representative objected that the charge against claimant, as previously quoted, was not precise and did not meet the requirements of that portion of Rule 23(b) of the applicable Agreement reading:

"(b) Employees will be given written notice in advance of the investigation, such notice to set forth the specific charge or charges against them."

Carrier's Rules I, J, K and Y read:

- "I. Employees will not be retained in the service who are insubordinate, dishonest, immoral, quarrelsome or otherwise vicious, or who do not conduct themselves in such a manner that the Company will not be subjected to criticism and loss of good will.
- J. Courteous conduct is required of all employees in their dealing with the public, their subordinates and each other. Boisterous, profane or vulgar language is forbidden. Violence, fighting, horseplay, threatening or interfering with other employees or while on duty is prohibited.
- K. Employees must report for duty at the designated time and place, attend to their duties during the hours prescribed and comply with instructions from their supervisor.
- Y. Employees must obey instructions from their supervisor in matters pertaining to their respective branch of the service, and employees whose duties require them to conform with instructions issued by various departments must familiarize themselves therewith and be governed thereby."

The only response made by the conducting officer to the protest of claimant's representative that the charge was not specific was:

"Okay, at this time, we will continue with the hearing and I believe all evidence will be brought out in the course of the hearing."

During the handling of the dispute on the property and in its submission to the Board, the Organization continued its contention that the charge against the claimant was not specific. We note that the notice of dismissal sent claimant on April 30, 1981, followed the same language as the letter of charge.

From our study of Rules I, J, K and Y, we are forced to the conclusion that they cover numerous possibilities, each of which could be the subject of discipline in itself. The charge against the claimant:

"Violation of Rules I, J, K and Y in the Amtrak Rules of conduct in connection with your actions during your tour of duty on April 14, 1981."

without more, did not constitute a "specific charge" as required by Rule 23(b) of the Agreement. For this reason, and without passing upon the merits of the dispute, the claim will be sustained to the extent provided for in Rule 23(f) of the Agreement.

A W A R D

Claim sustained in accordance with Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Leever - Executive Secretary

Dated at Chicago, Illinois, this 18th day of April, 1984