

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 11975  
Docket No. 11712  
91-2-88-2-209

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(International Association of Machinists and  
( Aerospace Workers  
PARTIES TO DISPUTE: (  
(Grand Trunk Western Railroad Company

STATEMENT OF CLAIM:

1. That the Grand Trunk Western Railroad violated the controlling Agreement dated September 1, 1949, as subsequently amended, when it unjustly assessed 30 demerits on Machinist D. W. Cox's service record and 20 calendar days suspension for alleged insubordination.

2. That the Grand Trunk Western Railroad be ordered to make Machinist D. W. Cox whole for all losses incurred due to the 20 calendar days suspension and clear his record of the 30 demerits and all reference to the investigation conducted on June 2, 1988.

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.

Claimant was employed by the Carrier as a Machinist at its Heavy Repair Shop at Battle Creek, Michigan.

On May 17, 1988, the Carrier notified the Claimant to attend a formal Investigation in connection with the following charge:

"... to determine your responsibility, if any, for being insubordinate to Supervisor W. F. Hibbard on Tuesday, May 17, 1988, at approximately 0715 hours when you were given a direct order by him to go to work and you refused."

Also on that date, the Carrier removed the Claimant from service pending the outcome of the Investigation. After two postponements, the Hearing took place on June 2, 1988, and concluded June 3, 1988. On June 30, 1988, the Carrier notified the Claimant that he had been found guilty of the charge and was assessed 30 demerits against his record and a 20 calendar-day suspension effective May 17, 1988, which he had already served. Thereafter, the Organization filed a Claim on Claimant's behalf, challenging his discipline.

This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of being insubordinate to his Supervisor on May 17, 1988.

Although the Claimant argues that the Supervisor did not address him in a professional fashion, that issue is irrelevant for our determination. The fact remains that he was given a direct order and he did not follow it. This Board does not excuse the Supervisor's behavior, but we find that the insubordination was clearly proven.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.


In the case at hand the Claimant received a 20 calendar-day suspension and 30 demerits for his insubordinate behavior. This Board points out that insubordination very often leads to dismissal, even on the first offense. Therefore, we cannot find that the Carrier's action in assessing the Claimant a 20 calendar-day suspension and 30 demerits was unreasonable, arbitrary, or capricious. Therefore, the Claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 16th day of January 1991.