

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 14070  
Docket No. 13962  
13-2-NRAB-00002-130008

The Second Division consisted of the regular members and in addition Referee James E. Conway when award was rendered.

(International Brotherhood of Electrical Workers  
PARTIES TO DISPUTE: (  
(BNSF Railway Company

STATEMENT OF CLAIM:

- “1. That in violation of the controlling Agreement, Rule 25 in particular, the BNSF Railway Company, as a result of an unfair and unwarranted investigation held on April 26, 2011, at Springfield, Missouri, unjustly and arbitrarily assessed Telecommunications Department Electronic Technician Randall W. Snyder a Level S Combined Suspension consisting of a 22-day Actual Suspension and an 8-day Record Suspension along with a One (1) Year Review Period.
2. Accordingly, the BNSF Railway Company be ordered to make Electronic Technician Randall W. Snyder whole for any and all lost wages, rights, benefits and privileges which were adversely affected as a result of the unjust assessment of discipline and that all record of this matter be expunged from his personal record, all in accordance with the terms of Rule 25 of the controlling Agreement.”

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.**

**By letter dated May 5, 2011, Claimant Randall W. Snyder, a long-service Company Electronic Technician at Springfield, Missouri, was assessed a 22-day actual suspension, an eight-day record suspension, and a one-year review period as a result of interactions with his Foreman while on duty on April 7, 2011. After notification of that action, the Organization took exception, appealed its claim to the Carrier's highest designated official on the property and when the matter remained unsettled following conferencing, ultimately progressed it to the Second Division Board for resolution. Upon careful consideration of the underlying record, the Board will partially sustain the claim.**

**Although details of the case are sharply contested, the essentials are straightforward. Distilled to basics, the extensive transcript compiled at the Carrier's formal Investigation conducted on April 26, 2011, reveals that on the morning of April 7, 2011, Foreman J. Bowers directed the Claimant to conduct certain battery tests using specialized equipment, on which the Claimant indicated he had not been trained. In response to that reaction and a similar response from a co-worker, Bowers and Electronic Technician Gold initiated training, instructing the Claimant to participate. The record suggests, however, that the Claimant considered the instruction beneath him, questioning what benefit was gained by being required to hold test probes on the battery and complaining that he was not genuinely being helped to understand how the equipment operated. According to Bowers, the Claimant told him "it was stupid and that we never used to check batteries in the past . . . [h]e stomped off three different times during the training session." The Claimant admits to walking away "a distance of, at the most, eight feet, eight to ten feet." Other testimony of record suggests that the complaining was loud.**

**Later that same day, apparently around 3:00 P.M., there was another verbal exchange between the Claimant and Bowers, described by Electronic Technician Knickerbocker as, "loud angry and hostile." Subsequently, when the Claimant returned to his shop at the end of his shift, Bowers inquired about a quantity of broken equipment on the ground, asking if the Claimant had thrown it there earlier that morning and directing him to pick it up. Further words were exchanged before**

the Claimant agreed to pick up the material on the ground, but not before the record suggests he may have, as Bowers asserts, “invaded his space.”

Given a clear, work-related directive that does not involve unsafe or unlawful activity, it is well established that employees are under a fundamental obligation to comply, whether they agree or not. The concept of “Obey and Grieve” – the legitimacy or wisdom of the order may always be challenged later through the grievance process – is a firmly established and time-tested canon of American labor relations, requiring no elaboration here.

As we read the record, however, the Board comes away with the sense that the Claimant, a 31-year veteran, and a man by his own words already inclined to sometimes question authority, here additionally harbored some degree of antagonism toward his considerably junior Foreman. So while Bower’s supervisory techniques were also questioned, the record as a whole affords the Board no basis for overriding the determination of the Carrier’s Hearing Officer who, after observation of witnesses and review of the Investigation transcript, found that the Claimant’s narrative was not wholly reliable.<sup>1</sup>

On one level, the Board finds it astonishing that an employee of the Claimant’s background - 31 years of service at the time of the incident, with what appears to be an exemplary record during that period - could have allowed things to get to this point. Without regard to whether Foreman Bowers did or did not contribute to the tension, the Claimant should have seen that his own engine light was on and his experience informed him that the proper course of action was to bite his tongue and do as directed. It is difficult to overemphasize in this context the importance of such compliance; similar conduct on the part of personnel lacking the kind of record the Claimant has compiled with great frequency results in dismissal from service, with such terminations commonly sustained by reviewing authorities.

With a view to balancing the severity of the discipline assessed against the Claimant’s exemplary record prior to the instant infraction, the Board directs the Carrier to reimburse Claimant Snyder for the 22-day actual suspension. However, a Level “S” 30-day record suspension will remain on his service record reflecting this

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<sup>1</sup> The Board has not considered in its deliberations a quantity of information input on the Claimant’s behalf following the closure of the Carrier’s formal Investigation.

**incident. The one-year review period imposed on May 5, 2011, has expired and is now moot.**

**AWARD**

**Claim sustained in accordance with the Findings.**

**ORDER**

**This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.**

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division**

**Dated at Chicago, Illinois, this 22nd day of January 2014.**