

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

Parties to Dispute: (System Federation No. 76, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. Carman Painter Aleksander Rusimovic was unjustly dismissed from service on January 28, 1977.
2. Carman Painter Aleksander Rusimovic was unjustly charged with assaulting Supervisor Daniel Lopez with profane verbal abuse, and spitting several times in his face.
3. That the Chicago and North Western Transportation Company be ordered to restore Carman Painter Aleksander Rusimovic to service with seniority and vacation rights unimpaired, compensate him for all time lost beginning January 28, 1977, and make him whole for all Health and Welfare and insurance benefits, and all other benefits he would have earned.

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 waived right of appearance at hearing thereon.

Claimant was shown to have refused several direct orders, was disrespectful, cursed and spit upon his immediate supervisor. Notwithstanding claims to the contrary, such actions were corroborated by several competent witnesses. The supervisor eventually retaliated by striking the claimant, twice by his account. That such actions by the supervisor were beyond a reasonably accepted tolerance was confirmed by his being placed on sixty-days suspension; the Claimant's apparently unprovoked verbal, abusive attack on the supervisor, and his refusal to desist upon reasonable orders to do so has brought a dismissal.

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Docket No. 7654
2-C&NW-CM-'78

No amount of rationalization can justify such repugnant actions by an employee to another and, where a supervisor is concerned, it undermines the necessary superior/subordinate relationship necessary in the industrial setting.

The actions of the Carrier were justifiable and well within reason.

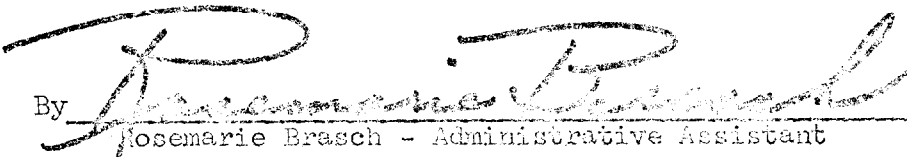
A W A R D

Claim is 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 29th day of November, 1978.