

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Washington Terminal Company

RECEIVED

DEC 29 1980

Dispute: Claim of Employees:

P. E. LACOSSE

1. That under the current agreement upgraded Apprentice Steven M. Krouse was unjustly dealt with when he was taken out of service August 23, 1978, and as a result of an investigation by letter from Master Mechanic E. D. Laird dated November 3, 1978 was given a three (3) day suspension, in addition to four hours penalty which was unjust and in violation of rule 29.
2. That the Washington Terminal Company be ordered to reimburse Mr. Krouse for his net wage loss of three (3) days and four (4) hours pay and his record be cleared, due to this unjust treatment by Carrier.

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 employe 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 removed from his tour of duty on August 23, 1978 because of alleged discourteous and vituperative behavior toward General Foreman P. H. Cooley. He was permitted to return to work the next day and then notified by letter, dated, August 28, 1978 that an investigative hearing was scheduled on September 5, 1978 to determine whether he was guilty of violating Carrier's General Rules K and N and the additional allegation that he did not cover his assignment or have the appropriate tools to perform his work. He was subsequently apprised by the Master Mechanic on September 14, 1978 that he was found guilty of the charged specifications and issued a three (3) day suspension. This disposition was appealed on the property and is now before this Division.

In defense of his position, Claimant contends that he was harassed and agitated by the General Foreman and not provided with the proper tools to cut the inbound motor off of Amtrak Train 83. He asserted that he was directed to perform work under unsafe conditions and that he merely informed Mr. Cooley of the potential hazards. Carrier disputes these contentions and argues that he was discourteous,

bellicose and impermissibly away from his assigned work station. General Foreman Cooley testified that Claimant persistently abused him after the aforesaid work was completed.

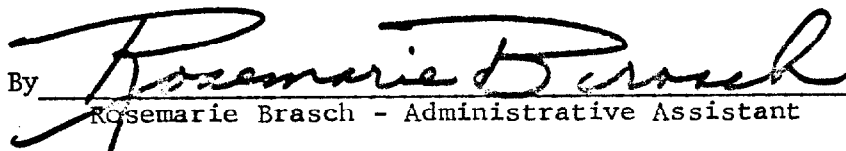
In our review of this case, we agree with Carrier's finding that Claimant was discourteous toward Foreman Cooley. Claimant was not at his assigned area when Mr. Cooley found him in the terminal waiting room and certainly not responsible when he carelessly left his tools on a tractor. But to compound his problem, he needlessly harangued the General Foreman, when he finished making the cut around the shop car with tools that he considered unsuitable. It might well be that he was correct when he told the General Foreman that performing this work with a hammer and a bar was unsafe. But he went beyond the bounds of permissible decorum when he continued his criticism in a plainly discourteous tone. The General Foreman did not act improperly under these conditions when he peremptorily removed Claimant from service and Carrier's later finding that he violated General Rules K and N is supported by the record. On the other hand, we recognize that Claimant's concern for workplace safety warrants some mitigative consideration, although it does not excuse his behavior. We will reduce the three (3) day suspension to one (1) day suspension to comport with this finding and our judicial requirement that discipline be corrective in nature.

A W A R D

Claim sustained to the extent expressed herein.

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 17th day of December, 1980.