

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

Parties to Dispute: { International Brotherhood of Firemen & Oilers
 { Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That in violation of the current agreement, Firemen & Oiler David Anderson was unjustly suspended and dismissed from service of the Carrier following hearing held on February 21, 1978, recessed and continued on April 14, 1978.
2. That, accordingly, the Carrier be ordered to make the aforementioned David Anderson whole by restoring him to Carrier's service with seniority rights unimpaired, restoration of all holiday, vacation, health and welfare benefits, pass privileges and all other rights, benefits and/or privileges that he is entitled to under rules, agreements, custom or law, and compensated for all lost wages and, in addition, the amount of six (6%) percent annual interest on such lost wages.

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 D. Anderson, a laborer at carrier's Raritan Engine Terminal, was discharged for insubordination and being abusive to Foreman Roy Gregiore. A hearing into the matter was held on April 14, 1978. As a result of that hearing, claimant was found guilty and on May 1, 1978, he was dismissed from service. A review of the record of that hearing reveals that claimant was given a full and fair hearing and granted all procedural and substantive rights required by agreement.

The record also reveals that claimant was guilty of insubordination and being abusive toward three employes in the yard office. The testimony of two supervisors and a fellow employe clearly supports this conclusion. Claimant was unable to explain away the testimony that he screamed and yelled at a supervisor and that he used foul language and racial slurs in conversation with a fellow employe.

The type of behavior displayed by claimant in this instance is unacceptable by any standard and is grounds for severe discipline. When the past record of claimant is reviewed, it becomes clear that he is a troublesome employee who, on three occasions in the past, has been disciplined for being abusive and threatening fellow employees. Carrier need not maintain such a person in its employ. Claimant did not learn from his past experiences and nothing in the record would indicate that he would improve in the future.

A W A R D

Claim 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 28th day of October, 1981.