

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

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

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer Charles A. Nettles was unjustly dismissed from service of the Carrier following trial held on July 17, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned Charles A. Nettles whole by restoring him to Carrier's service, with seniority rights unimpaired, made whole for all vacation rights, holidays, sick leave benefits, and all other benefits that are a condition of employment unimpaired, and compensated for all lost time plus ten (10%) percent interest annually on all lost wages, also reimbursement for all losses sustained account of coverage under health and welfare and life insurance agreements during the time he has been held out of service.

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.

The Claimant Charles A. Nettles was employed as a Laborer at the Carrier's Collingwood Diesel Terminal in Cleveland, Ohio. He was properly notified to report for trial on July 17, 1980 concerning charges of being: out of his assigned work area; insubordination to his immediate supervisor, and using of foul language to his immediate supervisor, W. Hardy, on June 11, 1980 at approximately 6:30 A.M.

By Notice of Discipline, dated July 24, 1980 Mr. Nettles was informed that he was dismissed from the service of the Carrier. A claim was filed on behalf of Mr. Nettles; and it was properly and timely progressed to this Board.

Substantial evidence of record, including the testimony of both Foreman Hardy and Foreman Matavovszky, supports the Carrier finding that Mr. Nettles was out of his work area in street clothes, that he did not follow the directive given him by Foreman Hardy to change back to his work clothes, and that he used foul and abusive language to both Mr. Hardy and Mr. Matavovszky. The Carrier

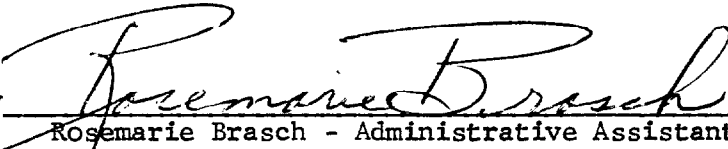
reviewed Mr. Nettles' disciplinary record and considered the fact that Mr. Nettles was an employe with two years of service in assessing the discipline it imposed. However, we believe based on the narrow facts of this record that Mr. Nettles should be given a final opportunity to prove that he values his job and that he will protect his assignment faithfully and follow the directions of proper authority. It should be made very clear to Mr. Nettles this is a last chance opportunity for him. Mr. Nettles therefore is to be reinstated with all rights unimpaired but without back pay or back benefits.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By 

Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of June, 1983.