

The Second Division consisted of the regular members and in addition Referee Carlton R. Sickles when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That under the current agreement Electrician H. Lerch was unjustly suspended for a period of ninety (90) days and thereby deprived of his earnings during the suspension.
2. That the Consolidated Rail Corporation (Conrail) be ordered to compensate Electrician H. Lerch, for all time lost, including incidental overtime, all insurance, vacation and other benefits because of the unjust suspension.

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 dismissed after hearing based upon an incident during which he refused to perform work assigned to him, destroyed company property, left work without permission, and used obscene language to a supervisor. The dismissal was later reduced to a ninety-day suspension. A review of the record establishes that the Claimant did perform the acts upon which the dismissal was based, that there was testimony given at the hearing which, if believed, was sufficient to establish these facts. This Board concludes that, in light of the reduction of the dismissal to a suspension of ninety days, it does not find the disciplinary action excessive, and the Board will deny the claim.

If the claimant felt that there were some improper statements to him, then his recourse is to follow the grievance procedures. It is axiomatic in labor-management relations that one must "comply now and grieve later". This, the claimant failed to do and, therefore, will not succeed with his claim.

The agreement was not violated.

A W A R D

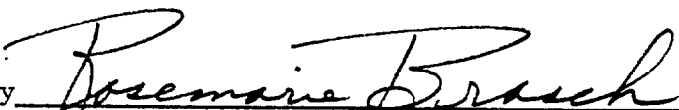
Claim is denied.

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Award No. 9548
Docket No. 8801
2-CM-EW-'83

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 13th day of July, 1983.