

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

(International Association of Machinists
(and Aerospace Workers, AFL-CIO
Parties to Dispute: (
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. The charge is harsh and discriminatory.
2. That the Carrier be required to remove the Discipline from Claimant's record.
3. That Claimant be restored to service with full pay and seniority.

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 employes 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, a Machinist, had been employed for four and one-half (4-1/2) years at the Carrier's Harrisburg Locomotive Terminal in Harrisburg, Pa. He was dismissed from service "in all capacities" on February 11, 1981 following an investigation on February 3, 1981, in connection with the fact he had "been found guilty of attempted murder and unlawful carrying of firearms in Dauphin County Court on January 21, 1981, which is conduct unbecoming a Conrail Employee."

The Claimant argues that the Carrier did not produce any other witness or employee who was adversely affected. Claimant also asserts there is no evidence the Claimant was absent due to the charges or that he violated any rule.

The Carrier contends the Claimant's off duty conduct causes him to be a liability rather than an asset to the Carrier, as well as a potential threat to the safety and well being of other Carrier employees with whom he comes in contact. The Carrier also notes the Claimant was found guilty in criminal court and incarcerated in a State Prison and subsequently could not perform service for the Carrier.

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Docket No. 9755
2-CR-MA-'84

The Board, after a review of the record, finds that the Claimant's specific off-duty conduct in this case constitutes a violation of Rule E of the "General Rules for the Conduct of Employees in the M of E Locomotive Department." Said rule requires:

"To remain in the service, employees must refrain from conduct which adversely affects the performance of their duties, other employees, or the public. They must refrain whether or not off duty, or on or off company property from conduct which brings discredit upon the company."

There was sufficient grounds in the record to support the Carrier's decision.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 7th day of March, 1984