

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 11683  
Docket No. 11343  
89-2-86-2-161

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

(International Brotherhood of Firemen and Oilers  
PARTIES TO DISPUTE: (  
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

1. That under the current and controlling agreement, Car Department Laborer, J. A. Brown, I. D. No. 170454, who was unjustly treated when she received a discipline letter in her personal record for alleged violation of Rules 1, 3 and 17 of the Rules and Regulations of the Mechanical Department. Said alleged violations occurring on or about October 3, 1985.

2. That accordingly, C.S.X. Transportation be ordered to remove the discipline letter dated October 10, 1985, from the Claimant's personal record, as she was not allowed due process of a formal hearing as provided for under the revised Rule 28 of the current and controlling agreement.

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 has been employed as a Laborer at the Waycross Car Shop, Waycross, Georgia since January 19, 1977. On October 3, 1985, the Claimant was directed by a Supervisor to move a welding machine from one area of the shop to another. When she did not comply with the order, the Supervisor again instructed her to move the machine. The Claimant stated that she desired to perform her duties in a particular order, but the Supervisor informed her that she must move the machine immediately. The Claimant allegedly became boisterous and threw a broom she had been using to the floor. The Supervisor then summoned the Assistant Department Foreman, who repeated the instructions to the Claimant regarding moving the machine and asked whether she understood the directive. The Claimant declined to answer and asked her Foreman for permission to go home. He denied her permission to do so, and she subsequently moved the welding machine as initially directed.

On that same day, the Claimant was summoned to the office of the General Foreman to discuss the incident. In the presence of her Local Chairman, she was informed that any further display of disruptive and insubordinate behavior would constitute sufficient cause for formal handling. The conference was confirmed by a letter of October 10, 1985.

The Organization asserts that the letter of October 10, 1985, was accusatory in nature, and should not have been placed in the Claimant's file without a fair and impartial hearing. It also complains that it was not given sufficient notice to properly represent the Claimant at the October 3, 1985 hearing, and that she was not properly notified of it by certified mail. The Carrier counters that the Claimant was merely being cautioned as to her conduct, that the correspondence was not intended as a Letter of Discipline, and that the October 3 meeting was not a formal hearing but merely a conference.

In Second Division Award 8062, it is stated:

"...this Board has consistently maintained the position that letters of warning are not disciplinary in nature, and that their insertion in an employee's file is not in violation of the investigation requirements of most agreements...letters of warning are an important and necessary device that can change an Employee's behavior and put him back on the track without the stigma of being disciplined and having this become a part of his personnel file and his work record."

This passage supports the proper utilization of Letters of Warning--not as reprimands, but rather as counseling tools. A Letter of Warning cannot be used as the basis for assessing a future penalty for an offense--only for the purpose of placing an individual on notice that particular behavior is unacceptable. Further, a Claimant always retains the right to append a rebuttal to such a Letter.

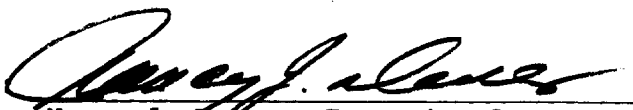
Based on the evidence presented, the Board finds that the said Letter of Warning does not constitute discipline and that the Claimant's due process rights were not violated.

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 22nd day of March 1989.