

The Second Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Florida East Coast Railway Company

STATEMENT OF CLAIM:

1. That at New Smyrna Beach, Florida on November 2, 1989, Mr. D. B. Hill, Electrician was removed from service pending formal investigation held November 21, 1989, and as result, was dismissed from service of the Florida East Coast Railway Company; carrier alleging Mr. D. B. Hill violated Safety Rules and Instructions for Maintenance of Equipment Department Employees.

General Notice: Paragraphs C and D. General Rules: Paragraphs 1, 2, 3, 8, 9, 10 and 13 on October 26, 1989.

General Notice: Paragraph D. General Rules Paragraphs 1, 2, 3, 13 and 19, on November 2, 1989.

FECRC violated the controlling agreement, and particularly Rule 29, Discipline Hearings, as a result of formal investigation alleging guilt of Mr. D. B. Hill.

2. That Electrician D. B. Hill be compensated four (4) and one half (1/2) hours beginning November 2, 1989 and eight (8) hours each work day thereafter at the pro rata rate for all lost wages, Claimant being allowed to return to service, seniority rights unimpaired, to be made whole for all vacation rights, made whole for all health and welfare and insurance benefits, made whole for pension benefits, including Railroad Retirement and Unemployment Insurance, and made whole for any other benefits that Claimant would have earned during the time he was held out of service, and personnel record be completely cleared.

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.

Claimant was charged with separate incidents of (1) insubordination in failing to follow his supervisor's instructions, and (2) directing boisterous, profane and vulgar language towards a supervisor, and insubordination in refusing to furnish a written statement about the incident when requested. After separate Hearings on November 12, 1989, the Claimant was found guilty of all charges and assessed the penalties of (1) a 30-day suspension for the first charge and (2) dismissal for the second set of charges.

After a review of the record, the Board finds that there is substantive evidence that Claimant is guilty of the charges and that he received a fair and impartial Hearing. We particularly note the testimony that Claimant confronted his supervisor in the presence of other employees after being served with the first notice of Investigation, and said "This is what you did for me, thanks a lot," and then "Watch your back, (expletive)."

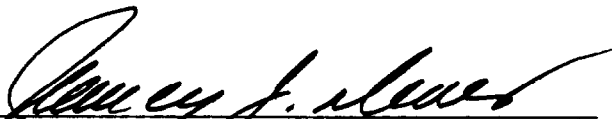
This Board has consistently held that the use of vulgar and profane language coupled as here with threats against a supervisor is not to be condoned and is properly grounds for dismissal. There were also two separate instances of insubordination involved in this case, and in these circumstances we can find no grounds for disturbing the Carrier's disposition of this matter.

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 18th day of March 1992.