

C O R R E C T E D

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21245
Docket Number CL-21371

James C. McBrearty, Referee

(Brotherhood of ~~Railway~~ Airline and Steamship Clerks..
(Freight Handlers, **Express** and Station **Employees**

PARTIES TO DISPUTE: (

(The Baltimore and Ohio Chicago **Terminal Railroad** Company

STATEMENT OF CLAIM: **Claim of** the System Committee of the Brotherhood
(GL-7927) **that:**

(1) Carrier violated the rules of the Clerks' Agreement when.
it dismissed Mr. R. E. Grayer **from** the service of the Company on July 25,
1974, and

(2) Mr. R. **E. Grayer** shall be restored to Carrier's service with
compensation for all **time** lost and all rights **unimpaired**.

OPINION OF BOARD: **Claimant** began service **with** the Carrier on July 8, 1969,
and was working as a Utility Clerk in Carrier's Service
Center located at BARR Yard, Chicago, Illinois, until he was displaced **from**
this position effective July **15**, 1974.

Claimant than properly **placed** a notice to exercise seniority rights
and displace onto the position of Utility Revenue Clerk in the Cashier's
Office at the same location. As of July 25, 1974, **Claimant's** supervisor **had**
not advised **Claimant** whether or not his displacement notice would be accepted.
Claimant applied for, and was **granted**, a vacation period while awaiting the
decision of his supervisor **concerning** his **displacement** onto the position of
Utility Revenue Clerk.

On **Thursday** evening, **July** 25, 1974, **Claimant** vent to BARR Yard
to pick up his pay check. Shortly thereafter, an altercation developed be-
tween **Claimant** and his supervisor, resulting **in the** use of obscene language,
a pay voucher being tom out of **the** supervisor's typewriter, hand swinging,
and Claimant being escorted off Carrier's property by the police.

Claimant was thereupon suspended pending investigation for "con-
duct unbecoming an **employee**, being **under** the influence of intoxicants while
on Company ptoperty, use of **obscene** language addressed to an officer of
the Company, and insubordination."

A hearing was held on August 5, 1974, and **on August** 12, 1974,
Claimant was notified by Carrier that he was being dismissed for "conduct
unbecoming an **employee** and insubordination, while on Company property, BARR
Yard, at approximately 6:00 P.M. on July 25, 1974."

Numerous prior awards of this Board set forth our function in discipline cases. Our function in discipline cases is not to substitute our judgment for the Carrier's, nor to decide the matter in accord with what we might or might not have done had it been ours to determine, but to pass upon the question whether, without weighing it, there is substantial **evidence** to sustain a finding of guilt. If that question is decided in the affirmative, the penalty imposed for the violation is a matter which rests in the sound discretion of the Carrier. We are not warranted in disturbing Carrier's penalty unless we can say it clearly appears from the record that the Carrier's action with respect thereto was **discriminatory**, unjust, unreasonable, capricious or arbitrary, so as to constitute an abuse of that discretion.

Turning **then** to the **case** at hand, the Claimant was charged by the Carrier with "conduct unbecoming **an** employe and insubordination **while on** Company property."

Certainly there is substantial evidence in the record *from* Carrier's **five (5) witnesses** that: (1) Claimant did resort to the use **of** foul and obscene language directed against his supervisor, (2) Claimant did tear a pay voucher out of the supervisor's typewriter and throw it on the floor, (3) Claimant was swinging **his** arms and hands about wildly, and (4) Claimant did refuse the order of his **supervisor** to leave the property, **with** the result that a Company policeman had to be called to **escort** him from the building, and the **Riverdale** Police had to be called to escort him from the parking lot.

It is inherent in the **work** relationship that personnel must conform to certain well-known, commonly accepted standards of reasonable conduct while on the job. The use of abusive, threatening, or profane language, especially if it is accompanied by displays of violent temper, is regarded as insubordination and therefore as just **cause** for discharge. A railroad yard office is a place for the processing of **important** papers and records, and the performance of work. **While** it is not a tearoom, neither is it a **place** for barroomconduct. **Childish, uncontrolled, or irresponsible** outbursts accompanied by physical or verbal assault cannot be tolerated. Such behavior *is not* excusable because the offender is in an agitated emotional state. **When** an **employe** lacks the emotional stability and rational judgment to restrain himself from outbursts, he also lacks the minimum qualifications to be retained as a member of the work force.

Furthermore, Claimant's conduct cannot be excused because he thought Carrier's supervisor was just stalling to protect the supervisor's daughter, who was holding the position on which Claimant had bid. **While** this **may** have been a **highly plausible** conjecture for Claimant to **make**, nevertheless, he should have filed a grievance with his union representative

stating that his bid was **being** improperly denied or at least improperly delayed. **Claimant** had talked to **his** representative before he (Claimant) went on vacation about his bid, **and** he should have done so again on July 25, rather than engaging in the conduct which he did.

When Claimant chose to **engage** in insubordinate action, the Carrier was placed in a position where it had to **immediately** take steps to eliminate such insubordination, **or** else the insubordination might have created havoc throughout the **office**. Consequently, **it** is well established, that dismissal is not inappropriate **in** cases of insubordination. (**Awards** 21059, 20770, 20769, 20102, 19666, 19760, and 19696).

FINDINGS: The Third Division of the **Adjustment** Board, upon the whole record and all **the evidence, finds and holds:**

That the parties waived oral **hearing;**

That the **Carrier** and the **Employees** involved in this dispute are **respectively** **Carrier and Employees** within the meaning of the Railway Labor **Act**, as approved June 21, 1934;

That this Division **of** the Adjustment Board has jurisdiction **over** the dispute involved **herein;** and

That, the **Agreement** was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD **ADJUSTMENT** BOARD
By Order of Third Division

ATTEST:


Executive **Secretary**

Dated at Chicago, Illinois, this 28th day of **September 1976.**