

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number **22055**  
Docket Number CL-22053

George S. Roukis, Referee

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

PARTIES TO DISPUTE: (

(The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood  
(**GL-8369**) that:

(a) The Carrier violated terms of the Clerks' Agreement  
**June** 23, 1975, when they held Mr. T. **M. Simons** out of service pending  
hearing and the Chesapeake and Ohio Railway Company then dismissed him  
from all **service** on July 3, 1975, and

(b) Mr. T. M. **Simons** should now be restored to service with  
full seniority and compensated for all wages and wage equivalents lost  
for the period he has been held out of service because of the decision  
rendered.

OPINION OF BOARD: Before proceeding to the substantive merits of  
this dispute, we will dispose of the procedural  
questions raised by Organization **regarding** the **admissibility** of exhibits  
A and D.

**Firstly,** the record clearly shows that the hearing officer  
sustained Claimant's objection to the introduction of exhibit A.  
We will not review the language and purpose of Circular No. 1, except  
to note its appropriateness to this concern. Therefore, any  
significance attached to **this document**, although putative, must be  
effaced.

Secondly, we agree with Claimant's procedural demurrer  
respecting the inadmissibility of exhibit D. Rule 27(g) is strikingly  
unambiguous and applies herein. Exhibit D should have been deleted  
from his service record pursuant to this provisions specifications.  
Moreover, we find nothing in the record that indicates additional  
procedural omissions.

**Claimant** was afforded a fair and competent hearing that strictly observed the niceties and the **requirements** of acceptable due process. The question properly before us then, is whether or not Carrier **abused** its authority by imposing a penalty in these circumstances that could reasonably be considered as arbitrary, unreasonable and capricious.

Accordingly, we have painstakingly examined the many cases dealing with similar or related fact situations to insure that our determination is consistent with the **precedential** thrust of our decisional law.

While we recognize the necessity of construing disciplinary matters within a remediative framework, we also recognize the critical importance of having safe and efficient work places, particularly in our industry. We are certainly mindful of spontaneous gripe manifestations **that** invariably occur, expletives notwithstanding, and the concomitant case law that has inexorably evolved viewing these performance dysfunctions within a rehabilitative perspective. But we are equally cognizant of the serious work place infractions which pose an unacceptable and potential threat to the safety and welfare of railroad operations.

The investigative transcript shows that Claimant's vitriolic outburst accompanied by physical threats precipitated an atmosphere of tension and volatility that unmistakably frightened and disconcerted his co-workers. They were unanimous in this assessment. It wasn't a transitory release of pent-up frustration that imposes momentarily a **minimal** degree of inconvenience, but instead, a sustained, person-specific directed tirade that could easily have resulted in violence.

Claimant should have resumed his **normal** assignment after leaving the Tariff Publishing Officer's room. He was given an opportunity at that time to respond to his immediate Supervisor's admonishments regarding coffee break lateness. When he continued and escalated his vituperative verbal assault on his Supervisor with its deleterious **impact** on his colleagues, he then displayed deportment which was intolerable.

This is not a case where verbal threats are made over the telephone, where some element of security is provided by distance. But a case where the offender was in the **immediate** environment of the berated, who happened also to be his Supervisor.

We enunciated in Award 21299 a general principle that we feel is equally pertinent to these events, namely, that uncontrolled outbursts accompanied by physical **or, as** in this case **verbal, assault** cannot be countenanced. The Board stated therein, "Such behavior is **not** excusable because the offender is in an agitated emotional state. When an **employee** 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."

We see no compelling reason or extenuating circumstances which should preclude its application to the instant case. We will deny the claim.

**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 12th day of May 1978.