

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22643  
Docket Number CL-22477

Kay McMurray, Referee

PARTIES TO DISPUTE: ( Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station Employees  
( Norfolk, Franklin and Danville  
( Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-8594), that:

1. Carrier acted in an arbitrary, capricious and unjust manner when, without just cause, it assessed a thirty (30) day actual suspension against Agent-Operator L. T. Jarratt.

2. In view of the foregoing Carrier shall now be required to:

(a) Compensate Agent-Operator L. T. Jarratt for all time lost commencing at 12:01 A.M., Tuesday, November 22, 1977, to 12:01 A.M., December 22, 1977, as a result of its arbitrary, capricious and unjust action.

(b) Remove and expunge the thirty (30) day actual suspension and any reference thereto from the service record of Agent-Operator L. T. Jarratt forthwith.

(c) Pay Agent-Operator L. T. Jarratt interest in the amount of ten (10) per cent compounded annually on any monies claimed in Item 2(a), supra.

OPINION OF ROARS': This case involves a thirty (30) day disciplinary suspension which was assessed against Agent-Operator L. T. Jarratt on November 18, 1977, following an investigative hearing which was convened to develop Claimant's responsibility on the charge of:

"\* \* \*conduct unbecoming an employe when at approximately 9:30 a.m., September 27, 1977, at the Norfolk, Franklin and Danville Railway station in South Hill, Virginia, when you used profanity and acted in a threatening manner toward the Norfolk, Franklin and Danville Roadmaster, J. R. Salmons."

Based upon our examination of the record before this Board in the instant case, it is apparent that Claimant was afforded all of the due process rights which accrue to him. The hearing record contains sufficient probative testimony - including Claimant's own - to support the charges as made. We are not convinced that the language used in this instance amounts to only "shop talk." The use of this type of vulgar language combined with threatening gestures may - and quite often does - subject the offender to discharge. Certainly the assessment of a thirty (30) day suspension cannot be considered excessive or capricious. (See Third Division Award No. 21299.) Accordingly, 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:

A. W. Paulke  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1979.