

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25272
Docket Number TD-24773

R. E. Dennis, Referee

(American Train Dispatchers Association
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation

STATEMENT OF CLAIM: Claim of the American Train Dispatchers Association
that:

'Appeal of 25-days suspension assessed Power Director A. J. Majsztrik
III, New York, NY following investigation held July 17, 1981.'

OPINION OF BOARD: Claimant A. J. Majsztrik III is a Power Director in Carrier's
employ and works in an office at 242 West 31st Street, in
New York City. on June 30, 1981, he was charged as follows:

"That on June 19, 1982, at approximately 2:35 p.m., in a telephone
conversation with Desmond Coates, Lineman E. T., who was located
at Lane Westbound Home signal, your conduct was discourteous,
in that you used profane and vulgar language, in violation of
Amtrak General Rules of Conduct 'I' & 'J' which read as follows:
'I' - Employees will not be retained in the service who are insubordinate,
dishonest, immoral, quarrelsome or otherwise vicious, or who
do not conduct themselves in such a manner that the Company will
not be subjected to criticism and loss of good will. 'J' - courteous
conduct is required of all employees in their dealing with the
public, their subordinates and each other. Boisterous, profane
or vulgar language is forbidden. Violence, fighting, horse play,
threatening or interfeering (sic) with other employees while on
duty is prohibited."

A hearing into the matter was held on July 17, 1981. At the conclusion
of that hearing, Claimant was found guilty as charged and assessed a 25-day
suspension. The transcript of that hearing has been made a part of the record
of this case. This Board has carefully reviewed the record of this case and
we are persuaded that Carrier did develop Claimant's guilt and it does have
the right to assess discipline for such an infraction. We do not, however,
concur with Carrier that the gravity of the offense rises to the level of a
Rule infraction for which a 25-day suspension should be assessed. This Board
is of the opinion that Carrier could make its point in this case with a letter
of reprimand. We are therefore directing that Claimant's record be expunged
of any mention of a suspension and a letter of reprimand be issued in its
place.

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

That the parties waived oral hearings;

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 discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 28th day of February 1985.

