

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Terminal Railroad Association of St. Louis

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The discipline (letter of reprimand) imposed upon B&B Gang Foreman J. K. Conley for alleged violation of General Rules B, E, M, N and General Notice, lines 2, 3 and 5, on October 10, 1986 was arbitrary, on the basis of unproven charges and in violation of the Agreement (System File 1986-15 T.R.R.A.).

(2) The dismissal of B&B Gang Foreman J. K. Conley for alleged vandalism of Truck 206 and alleged violation of General Rules (d) and (1), General Safety Rules N and U, Basic Safety Rules 1, 33(c) and 34(y) and General Order No. 1, Item 4, Rule (m) on December 19, 1986 was without just and sufficient cause (System File 1987-2 T.R.R.A.).

(3) The Claimant shall be entitled to the remedy prescribed by Rule 24(d)."

FINDINGS:

The Third 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 employed as a B&B mechanic by Carrier working as a B&B gang leader. On October 14, 1986, the B&B Supervisor sent Claimant a reprimand letter, charging Claimant as follows:

"At approximately 3:45 p.m., October 10, 1986, you were observed engaging in inappropriate behavior toward B&B Mechanic A.J. Cracchiolo. When I intervened, you then became insubordinate toward me in the presence of S.J. Bess, J. Schellingburger, and J.K. Roberds."

On January 5, 1987, Claimant was directed to attend a formal investigation in connection with the charge:

"to determined the facts and your responsibility, if any, in connection with alleged vandalism of Truck 206 and violations of TRRA General Rules (d) and (1); General Safety Rules N and U; Basic Safety Rules 1, 33(c), and 34(y); and General Order No. 1, effective 12:01 A.M., January 1, 1987, Item 4. Rule (m) revised, December 19, 1986."

The Hearing was held on January 9, 1987, and as a result, Claimant was dismissed from Carrier's service. The Organization thereafter filed a Claim on Claimant's behalf, challenging both the issuance of the reprimand letter to Claimant, and Claimant's dismissal from service.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of the offenses with which he was charged.

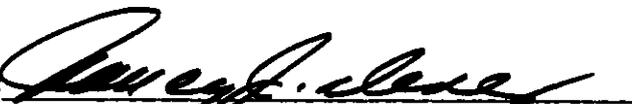
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find the action taken by the Carrier to have been unreasonable, arbitrary, or capricious. The Claimant has admitted vandalizing the Carrier's property, which is a very serious offense. There have been numerous cases which have upheld dismissals for similar offenses. This Board cannot find that the action taken by the Carrier was unreasonable. Therefore, the Claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1989.