

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

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
(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 then 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 went to BARR Yard to pick up his pay check. Shortly thereafter, an altercation developed between Claimant and his supervisor, resulting in the use of obscene language, a pay voucher being torn 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 "conduct unbecoming an employee, being under the influence of intoxicants while on Company property, 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 barroom conduct. 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, 19886, 19760, and 19698).

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.