

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21829
Docket Number MW-22035

Don Hamilton, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(St. Louis-San Francisco Railway Company

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

(1) The dismissal of Special Equipment Operator R. A. Cordova by Roadmaster D. R. Hall at 1:00 P.M. on March 1, 1976 was without just and sufficient cause and on the basis of charges which were not proven at the investigation held on March 19, 1976 (System File A-9473).

(2) Claimant Cordova shall now be allowed the benefits prescribed in Agreement Rule 9(c).

OPINION OF BOARD: The Roadmaster went to the job site and advised the Claimant Cordova that his expense reports were not in line. The parties argued over obtaining receipts for the meals and one word lead to another and subsequently the Claimant was terminated.

At the hearing, testimony was taken concerning daily expenses and the record keeping for the expenses. However, the following critical testimony is important to this case:

Q. Mr. Hall, I would like for you to tell me for what specific reason you fired Mr. Cordova.

A. He has a smart attitude and has problems with the foremen that work with him over going to eat. He doesn't take a noon meal, he goes to the switch where there is a town close to go eat.

A. The main reason I fired him was his calling me a horse's ass.

The record indicates that the Claimant was terminated March 1, 1976, and was returned to service by the Carrier March 29, 1976.

The record indicates that some discipline is warranted, but the discipline which was actually assessed by the Carrier is excessive.

It is held that the Carrier should compensate the Claimant for all time lost in excess of 15 days.

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 discipline was excessive.

A W A R D

Claim sustained as indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 6th day of January 1978.

