

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22055
Docket Number CL-22053

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employes
(
(The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8369) that:

(a) The Carrier violated terms of the Clerks' Agreement June 23, 1975, when they held Mr. T. M. Simons out of service pending hearing and the Chesapeake and Ohio Railway Company then dismissed him from all service on July 3, 1975, and

(b) Mr. T. M. Simons should now be restored to service with full seniority and compensated for all wages and wage equivalents lost for the period he has been held out of service because of the decision rendered.

OPINION OF BOARD: Before proceeding to the substantive merits of this dispute, we will dispose of the procedural questions raised by Organization regarding the admissibility of exhibits A and D.

Firstly, the record clearly shows that the hearing officer sustained Claimant's objection to the introduction of exhibit A. We will not review the language and purpose of Circular No. 1, except to note its appropriateness to this concern. Therefore, any significance attached to this document, although putative, must be effaced.

Secondly, we agree with Claimant's procedural demurrer respecting the inadmissibility of exhibit D. Rule 27(g) is strikingly unambiguous and applies herein. Exhibit D should have been deleted from his service record pursuant to this provisions specifications. Moreover, we find nothing in the record that indicates additional procedural omissions.

Claimant was afforded a fair and competent hearing that strictly observed the niceties and the requirements of acceptable due process. The question properly before us then, is whether or not Carrier abused its authority by imposing a penalty in these circumstances that could reasonably be considered as arbitrary, unreasonable and capricious.

Accordingly, we have painstakingly examined the many cases dealing with similar or related fact situations to insure that our determination is consistent with the precedential thrust of our decisional law.

While we recognize the necessity of construing disciplinary matters within a remediative framework, we also recognize the critical importance of having safe and efficient work places, particularly in our industry. We are certainly mindful of spontaneous gripe manifestations that invariably occur, expletives notwithstanding, and the concomitant case law that has inexorably evolved viewing these performance dysfunctions within a rehabilitative perspective. But we are equally cognizant of the serious work place infractions which pose an unacceptable and potential threat to the safety and welfare of railroad operations.

The investigative transcript shows that Claimant's vitriolic outburst accompanied by physical threats precipitated an atmosphere of tension and volatility that unmistakably frightened and disconcerted his co-workers. They were unanimous in this assessment. It wasn't a transitory release of pent-up frustration that imposes momentarily a minimal degree of inconvenience, but instead, a sustained, person-specific directed tirade that could easily have resulted in violence.

Claimant should have resumed his normal assignment after leaving the Tariff Publishing Officer's room. He was given an opportunity at that time to respond to his immediate Supervisor's admonishments regarding coffee break lateness. When he continued and escalated his vituperative verbal assault on his Supervisor with its deleterious impact on his colleagues, he then displayed deportment which was intolerable.

This is not a case where verbal threats are made over the telephone, where some element of security is provided by distance. But a case where the offender was in the immediate environment of the berated, who happened also to be his Supervisor.

We enunciated in Award 21299 a general principle that we feel is equally pertinent to these events, namely, that uncontrolled outbursts accompanied by physical or, as in this case verbal, assault cannot be countenanced. The Board stated therein, "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."

We see no compelling reason or extenuating circumstances which should preclude its application to the instant case. 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 Employes involved in this dispute are respectively Carrier and Employes 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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 12th day of May 1978.