

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22916

Docket Number MW-22902

George S. Roukis, Referee

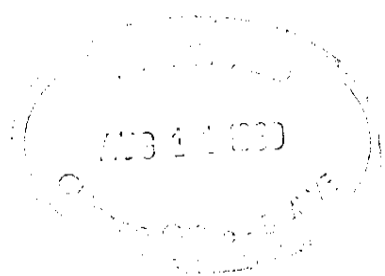
PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
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(Seaboard Coast Line Railroad Company

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

Because of unjust treatment in connection with an incident which occurred on May 11, 1977, Trackman B. L. Smith, Sr. be allowed to return to the camp car from which he was removed and the letter of caution involving said incident be expunged from his personal record [C-4(13)-BLS/12-39(77025)]."

OPINION OF BOARD: Claimant was assigned to Mobile Rail Gang 8592 on the night of the incident, to wit, May 12, 1977, involving himself and other employes occupying the same car. He requested a just cause hearing pursuant to Rule 39 Section 5 which provides for such a procedure after receiving a letter of caution and concomitant notice on May 17, 1977 that he was to vacate the camp car wherein the disturbance occurred. Five members of the Camp Car submitted to the Assistant Roadmaster individual complaint letters asserting that Claimant threw and broke a light bulb that splattered in an employe's face and played his radio incessantly in a loud and boisterous tone, notwithstanding their requests to lower it. The hearing was held on July 14, 1977 and Carrier informed Claimant on July 21, 1977 that the investigative record fully supported its finding that he was not treated in an unfair and discriminatory manner. This disposition was appealed on the property and is presently before this Board for appellate consideration.

In reviewing this case, we concur with Carrier that Claimant wasn't treated unfairly. In fact, we find that he visibly manifested a belligerent and uncooperative attitude that made shared living difficult. The investigative transcript does not reveal that his co-workers actively or subtly provoked him, but instead clearly demonstrates that he couldn't develop a cooperative relationship with them. We won't belabor the importance of cooperative deportment under the unique conditions of Camp Car assignment, but note for the record that continued and perhaps intensified discord could only adversely affect employe morale and performance quality. Claimant's behavior was palpably provocative and the resultant dispute on May 12 was predictably inevitable.



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On the other hand, we do not find that this incident represents what is considered a classic example of disciplinary misconduct since Claimant was able to perform his assigned work. But the evidence does show that he provoked the May 12 incident and could not get along with his fellow employees. The letter of caution was not an unreasonable response given the critical nature of Camp Car assignments and his correlative removal from that car at that time was an appropriate and practical solution. Because of this finding, we will deny Claimant's request that the letter of caution be removed from his personal file, but we will remove the restriction precluding him from returning to this Camp Car. We do not believe at this time that continuing this restraint will serve any constructive purpose since the intended rehabilitative objectives have presumably been achieved. The original crew, has in all likelihood been changed and Claimant, by now, understands the importance of group cooperation.

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 sustained in accordance with Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of July 1980.