

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert Silagi, Referee

Award Number 24381
Docket Number CL-24569

PARTIES TO DISPUTE:

{ Brotherhood of Railway, Airline and Steamship Clerks,
Freight Handlers, Express and Station Employees
{ Green Bay and Western Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9612) that:

1. Carrier violated the Clerks' Rules Agreement at Green Bay, Wisconsin when it charged, held investigation and assessed discipline of sixty (60) days suspension regarding Employee R. G. Villers on January 15, 1981.

2. Carrier shall now be required to compensate Employee R. G. Villers all lost wages due to the aforementioned suspension and remove all mention of charges, investigation and subsequent discipline from his personal record.

OPINION OF BOARD: Employee Villers, a Chief Clerk at the Green Bay Freight Office with seniority from 1955, was charged with using profane language in an altercation with Trainmaster R. M. Leary on January 8, 1981. At about 3:25 P.M., Claimant walked into the Yard Office and stated to the two yard clerks on duty, "Take a break boys. You don't have to type up that list.", and then sat down at an empty desk. Overhearing this conversation, Leary came out of his adjoining office and told Villers, "We're getting out a train. You have no business here. Get back in your office and quit distracting these clerks." Villers addressed an obscenity to Leary and said "Keep your God damn nose out of my business." Leary replied, "That is enough. I've had it with you. I'm not going to stand for this anymore. I'm writing this up." Villers uttered another obscenity to Leary and said "Write it up--see if I give a God damn." At the investigation on the charges Villers admitting using profane language but stated that it was not intentional, that he meant no harm by it and apologized.

In its ex parte submission, BRAC cites Third Division Award 18439 (Rosenbloom) for the proposition that an employee cannot be held to a higher standard of language than his superior. In the instant case, however, there is nothing to indicate that Leary, the superior, used anything but acceptable words to Claimant.

Vulgar and abusive language that is commonly accepted in a barracks has little place in an office of the Carrier. When coupled with a disruptive order to subordinates who had work to perform and addressed to their superior, such language is completely inappropriate. (See Award 16347-Devine, 16948-Criswell, 20089-Eischen and 20263-Lieberman, among others.)

The record at the investigation, including Claimant's own testimony, amply supports the charges. The use of this type of vulgar language may, and often does subject the offender to discharge. (Award 22643-McMurray). The assessment of suspension is, therefore, neither excessive nor capricious. Accordingly, the claim is denied.

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: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 13th day of May 1983.

