

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24668
Docket Number MW-24905

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(The National Railroad Passenger Corporation
((Amtrak) - Northeast Corridor

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

(1) The dismissal of Cook Tyrone DeSesso for alleged violation of "Rule I and J" was without just and sufficient cause (System Docket 259D).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his record cleared and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: The record shows that claimant entered Carrier's service on March 17, 1977, and at the time of the occurrence giving rise to the claim herein, he held position of Camp Car Cook, Track Laying System, headquartered at Wilmington, Delaware.

On July 13, 1981, claimant was notified to attend trial on July 27, 1981, on the charge:

"The incident that occurred on Friday, July 10, 1981 at approximately 1:30 AM in the kitchen car of the TLS camp at Ralston Purina Yard, Wilmington, Delaware in that you were in violation of Rule I and Rule J of the National Railroad Passenger Corporation's Rules of Conduct, in that you were being quarrelsome or otherwise vicious, boisterous, using profane and vulgar language, threatening and interfering with other employees."

The trial, or investigation, was conducted as scheduled. A copy of the transcript has been made a part of the record. A review of the transcript shows that the trial was conducted in a fair and impartial manner. Claimant was present throughout and was represented. None of his substantive procedural rights was violated. Following the trial the claimant was dismissed from service on August 10, 1981. The claim was handled in the usual manner on the property, and failure of settlement, was appealed to this Board.

Without detailing the evidence in the investigation, or trial, suffice it to say that a review of the transcript shows substantial evidence that claimant was:

"...being quarrelsome or otherwise vicious, boisterous, using profane and vulgar language, threatening and interfering with other employes."

as charged.

Based upon the evidence in the transcript, there seems no justification for claimant's actions, or any proper basis for the Board to interfere with the discipline imposed. The claim will be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 24th day of February, 1984

