

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25524  
Docket Number MW-25700

James Robert Cox, Referee

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

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

(1) The thirty (30) days of suspension imposed upon Welder Helper C. Brunson for alleged violation of "Rule I" and "Rule J" was arbitrary, capricious, without just cause and on the basis of unproven charges (System Docket NEC-BMWE-439D).

(2) The claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: Claimant Welder Helper C. Brunson was suspended for thirty days for violation of Rules I and J based upon an incident which occurred April 22, 1982.

Amtrak General Rule I reads in pertinent part:

"Employees will not be retained in the service who are... quarrelsome or otherwise vicious..."

and J states:

"Courteous conduct is required of all employees in their dealing with...each other...Boisterous, profane or vulgar language are forbidden..."

According to Material Inspector Lotito, Claimant entered his office asking for safety glasses at 9:15 a.m. the 22nd and Lotito told him that the Company gave him safety equipment one time and that, if it was lost, stolen or misused, he would have to pay for it through signing a payroll deduction form. When asked if he had an old pair to turn in, Claimant responded that the Company supplied equipment, refused to sign the deduction form and called Lotito an uncomplimentary name for enforcing Company procedure. No other employee was in the office at the time of the conversation.

Claimant admitted that he refused to sign the deduction statement explaining that he had previously received welding goggles without signing for them and that he was merely seeking a pair of welding goggles which he had received in the field whenever he needed them. Claimant further asserts that when he asked for the goggles he was questioned about what happened to his previous pair and was threatened with loss of his job. He performed his work that day by borrowing a pair of goggles.

Claimant had been suspended in September, 1977, for failure to follow orders, received a letter of reprimand in October for failure to stop at a signal and was taken out of service in August, 1977, for violation of Rules I and J, based on his refusal to comply with instructions from his Foreman with whom he fought. In September, 1977, he was given a warning letter for being in a restaurant while on Company time. Following these 1977 infractions, Claimant's discipline record improved.

It is clear that the Inspector had a right to request that Claimant sign for the goggles and was properly following Carrier policy. Claimant, due to his 1977 discipline, was certainly aware of Rules I and J. He refused a simple request which, had he wished to contest, should have been grieved. Not only did he abuse the Inspector but he worked without his own eye protection, borrowing from another employe.

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:

  
Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 28th day of June 1985.

