

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 28016
Docket No. CL-28241
89-3-88-3-43

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Northeast Illinois Regional Commuter Railroad Corporation

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10230) that:

1. Carrier violated the Agreement Rules, particularly Rule 56, when under date of February 4, 1987, it dismissed Ms. Carmen Judice from the service of the Carrier on the basis of a formal hearing held on January 29, 1987 and

2. Carrier shall be required to clear the record of Ms. Carmen Judice of all related charges and compensate her for all time lost with full seniority rights, vacation rights and all other conditions as provided for the current BRAC Agreement, effective with the date of January 23, 1987, the date Carrier held Claimant Carmen Judice from the service of the Carrier and continuing until such time as she is restored to the service of the Carrier."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was employed as a Chief Clerk. On January 23, 1987, Claimant was directed to attend a formal investigation of the charge:

"Your alleged failure in connection with your conduct unbecoming an employee in violation of the Northeast Illinois Railroad Corporation Employee Conduct Rules, Form E-01-RC, under General Rules 'N', Paragraph 1, 3(1), 3(5), and 3(6), which state:

- '1) Courteous deportment is required of all employees in their dealings with the public, their subordinates and each other.
- 3) Employees must not be:
 - (1) Careless of the safety of themselves and others.
 - (5) Immoral.
 - (6) Quarrelsome or otherwise vicious.'

When on Thursday, January 22, 1987, at approximately 10:50 a.m., you allegedly threatened to inflict bodily harm to Mr. G. A. Fuller, Division Manager - Mechanical Department."

The hearing took place on January 29, 1987, and Claimant was dismissed from service. The Organization thereafter filed a claim on Claimant's behalf, challenging her dismissal.

This Board has reviewed the procedural arguments raised by the Organization, and we find them to be without merit.

With respect to the substantive issue, this Board finds that there is sufficient evidence in the record to support the finding that the Claimant is guilty of conduct unbecoming an employee when she threatened to inflict bodily harm to a Division Manager of the Carrier.

Once this Board has found that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find it to have been unreasonable, arbitrary, or capricious.

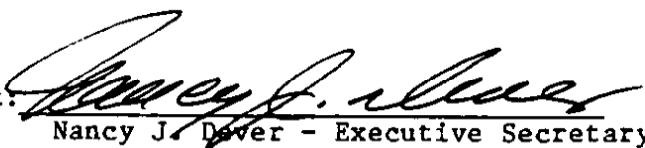
In the case at hand, the Claimant has been found guilty of making serious threats toward a managerial employee. That type of behavior has been found to be a dismissible offense on numerous occasions in the past. Given the nature of the wrongdoing, this Board cannot find that the action taken by the Carrier was unreasonable, arbitrary, or capricious. Therefore, the claim must be denied.

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 31st day of July 1989.