

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43027  
Docket No. SG-42981  
18-3-NRAB-00003-150182**

The Third Division consisted of the regular members and in addition Referee Barry E. Simon when award was rendered.

**(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(Idaho & Sedalia Transportation Company, LLC**

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Idaho & Sedalia:**

**“Claim on behalf of S. Navarro, for reinstatement to his former position with compensation for all time lost, including overtime, with all seniority rights and benefits unimpaired, and any reference to this matter removed from his personal record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 49, when it issued the Claimant the harsh and excessive dismissal without providing him a fair and Impartial Investigation and without meeting its burden of proving the charges in connection with an Investigation held on July 8, 2014. General Chairman’s File No. S-55-1388. BRS File Case No. 15130-I&S.”**

**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 employee 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 were given due notice of hearing thereon.**

Following a formal Investigation at which he was charged with “harassment, intimidation, threats, and verbal altercations with several co-workers at the Carrier’s Wire Shop in Sedalia, MO,” the Claimant was dismissed from service effective July 18, 2014.

Testimony developed at the Investigation established that the Claimant and another employee, Lucas Robinson, were on different shifts, but were working on wiring the same signal case. The two employees left notes for each other, explaining the work each had done on his shift. In his notes to Robinson, the Claimant referred to him as “homie.” Robinson objected to this reference and brought his concerns to the attention of the Signal Shop Manager, telling him he found the reference to be offensive. This prompted Shop management to direct Foreman Mike Sanders, who was also a Union representative, to tell the Claimant to discontinue addressing Robinson as “homie.” On June 6, 2014, two days later, the Claimant had a confrontation with Robinson, which Robinson described in a written statement as follows:

“I went to Steve’s station to get my torch. When I went over there he confronted me about a situation where I was offended about being called ‘homie.’ I said yes, that I was offended by this. He then asked me if I was forced to say this by management. In fear of further confrontation from Steve Navarro, I said yes. He then told me that ‘good because if it was you, I would settle this outside of work.’ I felt threatened by this. I then decided to go to Zach Smith my Union Rep and explained to him what Steve Navarro had said to me. Zach then went to management to explain what had been said.”

The Carrier later received reports from other employees that the Claimant had been saying he had some friends on both the day and night shift, and that he would like to invite them over to his house for a cook out and empty his 9mm on them.

The Organization denies that the comments the Claimant made were of a threatening nature. It questions the veracity of Robinson’s testimony, and asserts much of the evidence used by the Carrier was hearsay. It contends he was a well-liked and well-respected member of the Shop’s workforce.

It is well-established in this forum that the Board's role does not involve making judgments as to the truthfulness of the testimony in the Investigations. That responsibility rests with the Carrier's hearing officer, and we will reverse that judgment only if we find it to have been unreasonably made. We can make no such finding in this case. We hold, therefore, that the Carrier had substantial evidence to support its charge against the Claimant. In light of the seriousness of the charge, and the fact that the Claimant had less than four years of service with the Carrier, we find that the discipline imposed in this case was neither arbitrary nor excessive. In reaching this conclusion, we have considered the various arguments advanced by the Organization and find them to be unpersuasive.

**AWARD**

Claim denied.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of March 2018.