

Award No. 11

Case No. 11

Public Law Board No. 2203

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Consolidated Rail Corporation

STATEMENT  
OF  
CLAIM:

(a) Carrier violated Rules 5-A-1 and 5-E-1 and other provisions when it dismissed Equipment Operator R. L. Jones September 22, 1977.

(b) Claimant's record be cleared and he be restored to service with all rights unimpaired and without loss of pay.

FINDINGS:

Claimant was dismissed for using abusive language to Supervisor Keller and attempting to provoke a fight.

The evidence is not sufficient to support a finding that claimant tried to start a fight. It does establish, however, that he acted improperly, "cussing out" Mr. Keller repeatedly while demanding water.

As we have frequently held, no supervisory employee should have to put up with that kind of nonsense in carrying out his

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duties. There are several extenuating circumstances, however, in this case that lead us to believe that it does not provide a sound basis for extreme disciplinary action. There is evidence that claimant was ill and in real need of water on that hot August day. Our feeling with respect to this case is somewhat similar to that we expressed in Award No. 5. In our judgment, claimant should be given another chance with a stern warning that any disturbance with a supervisor will be grounds for dismissal.

AWARD: Claimant to be reinstated with seniority rights unimpaired but without back pay.

Adopted at Philadelphia, Pa., May 17, 1979.



Harold M. Weston, Chairman



Carrier Member



Employee Member