

BEFORE PUBLIC LAW BOARD NO. 6239

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

CSX TRANSPORTATION

Case No. 65

STATEMENT OF CLAIM:

Appeal of the thirty-day actual suspension issued to Claimant R. D. Crawford as a result of investigation held on May 17, 2006, in regards to Claimant's alleged conduct unbecoming a Carrier employee in violation of Carrier Transportation Operating Rules General Rule A, General Regulations GR-2 and GR-3A, Carrier Safe Way – General Safety Rule GS-1, and Carrier's Policy on Workplace Violence.

FINDINGS:

The Claimant was employed by the Carrier as a vehicle operator at the time of this claim.

On May 2, 2006, the Carrier notified the Claimant to appear for a formal investigation to determine the facts and place his responsibility, if any, in connection with his having threatened Operator M. T. Ohair with a knife while in a motel room at the Quality Inn in Kent, Ohio, on April 26, 2006. The Carrier charged the Claimant with conduct unbecoming a Carrier employee in violation of Carrier Transportation Operating Rules General Rule A, General Regulations GR-2 and GR-3A, Carrier Safe Way – General Safety Rule GS-1, and Carrier's Policy on Workplace Violence. The Claimant was withheld from service pending the results of the formal investigation.

The hearing took place on May 17, 2006. On June 5, 2006, the Carrier notified the Claimant that he had been found guilty of all charges and was being issued discipline of a thirty-day actual suspension beginning April 17, 2006, and continuing until May 26, 2006. The Carrier also informed the Claimant that, in addition, he was being required to serve a sixty-day overhead suspension resulting from previous discipline as outlined in a letter dated September 12, 2005, to begin immediately following the thirty-day suspension and ending July 25, 2006. In addition, the Carrier instructed the Claimant to contact the EAP to complete an evaluation as outlined by an EAP counselor and to follow a plan that the EAP counselor deems necessary prior to returning to work on or about July 26, 2006.

The parties being unable to resolve their dispute, this matter comes before this Board.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating Carrier rules when he threatened a fellow employee with a knife while in a motel room on April 26, 2006. The testimony clearly supports the charge that the Claimant told the fellow employee, after he showed him a knife, that he would cut the employee's hair while the employee was asleep and that the other employee would not be able to do anything about it. The Claimant continued the threat by cutting strands of his own hair in front of the other employee.

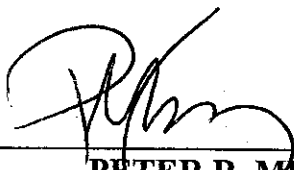
Once this Board has determined that there is sufficient evidence in the

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 its actions to have been unreasonable, arbitrary, or capricious.

The Claimant in this case was issued a thirty-day suspension. Given his previous disciplinary background, coupled with the seriousness of the offense of which he was properly found guilty in this case, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it issued the Claimant a thirty-day suspension for this offense. The fact that this suspension of the Claimant triggered another overhead suspension has no bearing on this case. It also appears from the record that the EAP program to which the Claimant was assigned can only help the Claimant. Therefore, the claim must be denied.

AWARD:

The claim is denied.



PETER R. MEYERS
Neutral Member

Dated: 10/17/06