

BEFORE PUBLIC LAW BOARD NO. 6239

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

CSX TRANSPORTATION

Case No. 50

STATEMENT OF CLAIM:

Appeal of the dismissal issued to Claimant H. E. Salkey as a result of investigation held on September 16, 2003, in regards to Claimant's conduct unbecoming an employee, insubordination, and a violation of Carrier Operating Rule 501.

FINDINGS:

The Claimant was employed by the Carrier as a track foreman at the time of this claim.

On August 29, 2003, the Carrier issued a notice informing the Claimant to appear for a formal investigation in connection with his failure to comply with the verbal instructions given to him by Assistant Roadmaster D. W. Hampton on August 20, 2003. In addition, the Carrier indicated in the notice that on August 25, 2003, the Claimant had been observed at the Ft. Lauderdale Engineering office using loud, boisterous, and threatening language and becoming violent. The Carrier charged the Claimant with conduct unbecoming a Carrier employee, insubordination, and a violation of Carrier Operating Rule 501. The Carrier informed the Claimant that he was being withheld from service pending the outcome of the investigation.

The hearing took place on September 16, 2003. On October 2, 2003, the Carrier notified the Claimant that he had been found guilty of all charges and was being dismissed from the service of the Carrier.

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 conduct unbecoming a Carrier employee, insubordination, and a violation of Carrier Operating Rule 501. The Claimant admitted that he did not comply with instructions; he admitted missing a meeting with supervision; and he admitted calling a supervisor a liar and being loud, all of which constituted violations of Carrier rules.

Rule 501 states:

All employees must behave in a civil and courteous manner when dealing with customers, fellow employees, and the public.

Employees must not be . . . insubordinate . . . quarrelsome . . .

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 guilty of very serious wrongdoing and only

had worked for the Carrier for a short period of time. Given the serious offenses of which the Claimant was admittedly guilty, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated his employment. Therefore the claim must be denied.

AWARD:

The claim is denied.



PETER R. MEYERS
Neutral Member

Dated: _____

5/31/07