

Award No. 1
Case No. 1

PUBLIC LAW BOARD NO. 1881

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
MISSOURI PACIFIC SYSTEM FEDERATION

vs.

ARKANSAS AND LOUISIANA MISSOURI RAILWAY COMPANY

STATEMENT OF CLAIM

- (1) Carrier unfairly dismissed Trackman James Biddings, Section 2, Bastrop, Louisiana, from the Carrier's service effective March 19, 1976, for alleged violation of Rule 121 of the Rules and Regulations for Maintenance of Way and Structures on March 2, 1976.
- (2) The discipline assessed was harsh and excessive.
- (3) Trackman Biddings should now be reinstated to Carrier's service and paid for all time lost, with rights and privileges restored to him that he would have if he had not been dismissed.

OPINION OF THE BOARD

The record in this dispute discloses that the Claimant had been employed by Carrier for approximately three years as of March 2, 1976. That on March 2, 1976, Claimant was involved in two incidents; one at approximately 11:00 a.m. and the other at approximately 3:30 p.m. The record discloses that there were heated remarks made between Claimant and his Supervisor at approximately 11:00 a.m. on the date in question. Later on that same day and at approximately 3:30 p.m., while the men were going off duty, the evidence discloses that Claimant used

profanity and attempted to entice his Supervisor into an altercation. All of the evidence indicates that the language of Claimant was of a rough nature.

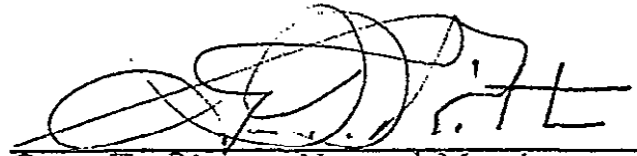
Rule 121 distinctly provides for courteous deportment of all employees in their dealings with the public and each other. A formal investigation was held on March 11, 1976, in Monroe, Louisiana resulting in the dismissal from service of this Claimant after being found guilty of violating the said Rule 121. The record further discloses that this same Claimant was suspended for seven working days effective November 14, 1974 and was placed upon a one year probation for insubordination, as well as other violations. Therefore, the evidence in this case, together with the past record of this Claimant, justifies Carrier for its action taken in this instance.

The discipline of employees is a matter which is within the ^{C.T.E.} prerogative of management so long as management exercises discretion and fair judgment and does not act in an arbitrary capricious manner. See First Division Awards No. 10649 and 14044.

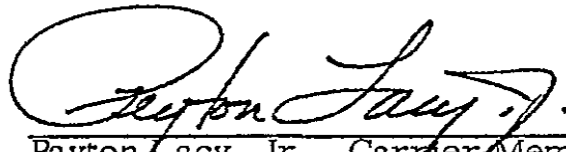
Also, where the employee is shown to be a repeat offender, the Carrier may consider this fact in arriving at the proper discipline. See First Division Award No. 20372; Third Division Award No. 10880 and 10920 and Fourth Division Awards No. 796 and 798.

For the reasons above stated, this Claim will be denied.

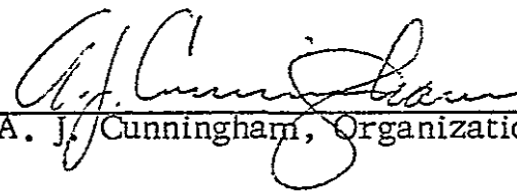
Award: Claim Denied.

A handwritten signature in dark ink, appearing to read "Gene T. Ritter", written over a horizontal line.

Gene T. Ritter, Neutral Member

A handwritten signature in dark ink, appearing to read "Payton Lacy, Jr.", written over a horizontal line.

Payton Lacy, Jr., Carrier Member

A handwritten signature in dark ink, appearing to read "A. J. Cunningham", written over a horizontal line.

A. J. Cunningham, Organization Member