

PUBLIC LAW BOARD NO. 2143

AWARD NO. 73

SEABOARD COAST LINE RAILROAD CO.

VS.

UNITED TRANSPORTATION UNION (E)

STATEMENT OF CLAIM: Claim of Engineman Cameron McNeill for clear record with pay for days suspended July 21, to August 4, Rule G-1 relating to disloyalty, May 12, 1978.

FINDINGS: On May 11, 1978, Claimant McNeill, UTU Local Chairman, requested that he be permitted to mark off for handling Union business, and permission was granted. On the previous day, a grade crossing accident occurred at Broom Straw Crossing at Lane, South Carolina. Two railroad employees were killed, and Fireman John C. Fisher, a constituent of Claimant's, was injured. Fisher was hospitalized, and he requested that Claimant obtain the services of the approved legal counsel for the UTU for his representation in connection with anticipated claims for damages.

On May 31, 1978, Local Chairman McNeill was cited to formal investigation on June 2 following "to develop the facts and place your responsibility for participating in activities inimical to the best interest of this Company in transporting and assisting investigator from the Law Firm of ... who was observed on Company property at Lane, S. C., on May 12, 1978. You are charged with marking off under false pretenses on May 11, 1978, and the possible violation of that part of Rule G-1 dealing with disloyalty and Rule 708."

Discipline letter was issued on June 23, 1978, and read in essential part:

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"It was clearly developed and admitted by you in the investigation that you did in fact meet at the Charleston Airport an investigator for a law firm, transport him to Lane, S.C., for the purpose of aiding and abetting him in trespassing on Company property and thereby assisted him in furthering possible legal action inimical to the best interest of this Company, your employer.

The sustaining decision rendered by the learned Chairman and Neutral in Award No. 73 of Public Law Board No. 2143, involving Local Chairman Cameron McNeill, is of great concern to Carrier, not because of the monetary aspects, instead, the ominous significance for future actions by Local Chairmen and the impressions they will gain, to-wit: that they will have absolute license to perform disloyal acts inimical to their employees' interests:

Carrier does not question the Local Chairman's right to mark off and assist his union members in legitimate union business, however, we cannot agree for one moment that the actions of the local union officers in assisting trespassers to enter our property for the purpose of gathering information to use in a suit against Carrier, transcends the limits of Carrier's Operating Rules applicable to "disloyalty" to an employer who pays his wages and upon whom his livelihood depends. If such actions by the Local Chairman transcend Carrier's rule regarding disloyalty, then who is to say, or prevent, Local Chairmen and others from "stretching" that desire to be nursemaid, counselor, advocate and friend to other more serious areas, or be excessively bold in cases such as that involved in Award No. 73?

Claimant McNeill admitted during the formal investigation held in this particular case that he "offered his services" to the law firm of Beckham, McAliley and Proenza of Miami, Florida; that he voluntarily met an investigator, representing that law firm, at the Charleston Airport, transported him to Lane, S. C., for the purpose of aiding and abetting him in

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is at times nursemaid, counselor, advocate and friend to his members.  
As long as he does not violate agreement rules or the law in wearing  
these hats he is not "disloyal" to his employer. Certainly Mr. McNeill  
was not.

AWARD: Claim sustained. Carrier shall make this award effective within  
30 days from date hereof.

  
DAVID H. BROWN, Chairman and Neutral Member

  
R. I. CHRISTIAN, Carrier Member  
Dissent attached —

  
R. L. MCCOLLUM, Organization Member

June 12, 1979

trespassing on Company property, thereby assisting the investigator in the progression of possible legal action, hostile and adverse, to the best interests of this Company, Claimant's employer. Carrier clearly understands that Mr. McNeill has every right to assist one of his members in securing the services of legal counsel, however, we hold firm to our position that he does not have the right to accompany employees of legal counsel to the Company's property and engage in activities detrimental to its interest. To do so is being patently disloyal. Mr. McNeill realized that fact, otherwise he would have been on the crossing with the investigator.

In the summation of its submission to Public Law Board No. 2143, Carrier stated: "While Claimant obtained permission to be off for the ostensible reason of performing 'union business', it should be obvious that the union's business is not or should not be to foster suits against the Railroad." Our position remains unchanged, although its true meaning was apparently lost at time of presentation.

There were no procedural errors to be considered in rendering the decision in this case, nor was the discipline assessed harsh or unreasonable. The wearing of "bany hats" by the union Local Chairman did not place him outside the ambit of Carrier's Operating Rules.

For the reasons set out above, Carrier vigorously dissents.

*R. I. Christian*  
R. I. Christian  
Carrier Member

