

PUBLIC LAW BOARD NO. 3445

Award Number: 55
Case Number: 55

PARTIES TO DISPUTE

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

AND

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM

Claimant, J. D. Honeycutt, Rt. 1, Box 41, Lansing, TN 37770-9705, was dismissed from service on November 7, 1987 for alleged conduct unbecoming an employee. Claim was filed in accordance with Railway Labor Act and agreement provisions. Employees request he be reinstated with pay for all time lost with vacation and seniority rights unimpaired.

FINDINGS

Claimant entered the Carrier's service on August 16, 1982.

By letter dated November 12, 1987, the Carrier instructed Claimant to attend a formal investigation on charges that he had exhibited conduct unbecoming an employee. That investigation was conducted on December 7, 1987. Evidence adduced at the investigation led to Claimant's dismissal by letter dated December 23, 1987.

The issue to be resolved in this dispute is whether Claimant was

dismissed for just cause under the Agreement; and if not, what should the remedy be.

The charges against Claimant stem from a series of incidents during September, October and November 1987. These include the events of November 4 and 6, 1987 when Claimant refused repeated instructions to wear his safety glasses, used obscene language and gestures and refused instructions to cease doing so. Claimant also spoke in a derogatory and threatening manner to T&S Supervisor B. E. Carlyle. Prior to these November incidents, Claimant had insulted Laborer H. L. Reed, behaved in a manner which led three gang members including Reed to request not to work with him, and repeatedly made obscene gestures and comments to both co-workers and supervisors. In addition, Claimant engaged in horseplay by greasing the buttons on some machinery which he admitted was dangerous, and, by implication, in violation of the Carrier's rules.

The position of the Organization is that Claimant was dismissed without just cause because he is not culpable as charged. Claimant denied using obscene language and stated that the obscene gestures were made in jest. The Organization maintains that Claimant has been singled out for reprimand about not having on his safety glasses, as other employes were not wearing theirs.

The position of the Carrier is that it had just cause to dismiss Claimant. The Carrier cites Claimant's repeated disrespectful actions toward his fellow employes and supervisors (be they obscene language and

gestures, threats, or offensive or derogatory statements) as proof of his unbecoming conduct. The Carrier also contends that Claimant's behavior is unbecoming in those instances where he has been unsafe or engaged in horseplay. The Carrier maintains that dismissal is appropriate and that it cannot be expected to retain employees who are abusive.

After review of the entire record, the Board finds that Claimant was dismissed for just cause.

The Carrier has established by substantive credible evidence in the record that Claimant repeatedly engaged in unsafe behavior and prohibited horseplay. Moreover, Claimant's repeated use of obscene language and gestures as well as his abusive manner to co-workers and superiors has been conclusively proven. These actions are wholly unacceptable in the industrial workplace. Mutual respect and concern for the safety and dignity of co-workers and superiors are essential for the smooth operation of the Carrier's operation. Claimant's disruptions were sufficiently severe and recurring as to warrant dismissal. The Carrier's actions were neither arbitrary, capricious nor discriminatory.