

Public Law Board No. 3514

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employees  
and  
Consolidated Rail Corporation

STATEMENT  
OF  
CLAIM:

Claim by Clifford Nelson for reinstatement and reimbursement for pay loss resulting from dismissal on October 20, 1980.

FINDINGS:

Claimant's dismissal is based on Carrier's finding that he used abusive language toward his foreman, B. Koch.

There is substantial credible evidence in the record, consisting of testimony by Foreman Koch and the corroborating testimony of Operator Ling, a member of claimant's work gang, that claimant tried to leave the job about ten minutes before lunch time, that Mr. Koch directed him to return to duty and an argument ensued. While we are disposed to permit the men considerable latitude in the type of invectives and unsavory language they may hurl at one another during arguments, we are satisfied, and find, that claimant subjected his foreman to extremely intemperate language in this situation of a type that no foreman reasonably has to be subjected to in the performance of his duties.

The evidence does not establish that claimant was unduly provoked by Foreman Koch. Nor does the record disclose any prejudicial procedural error on Carrier's part; the hearing was held on due notice and claimant was afforded fair opportunity to be represented, present his case and cross examine.

No valid basis is perceived for this Board to reverse Carrier's decision in the present case.

AWARD: Claim denied.

Adopted at Philadelphia, Pa., October 4, 1984.



Harold M. Weston, Chairman



Carrier Member



Employee Member