

PUBLIC LAW BOARD - NO. 3514

Case 57

Award 57

PARTIES Consolidated Rail Brotherhood of Maintenance
to Corporation and of Way Employees
DISPUTE:

STATEMENT OF CLAIM: That Foreman E. Thomas was unjustly suspended for ten days, that the suspension be stricken from his records, and that he be compensated for all lost time.

FINDINGS: Subsequent to an investigation, the Claimant was found guilty of insubordination and threatening bodily harm to a supervisor, resulting in the penalty cited above.

The Carrier asserts that the Claimant, after being given an assignment for the day, complained that there was too much work. It afterward followed, according to the Carrier's version of events, that the Claimant threatened the Supervisor and told him he would not do the work.


For its part, the Organization contends that the Claimant never refused to do the work, nor threatened his Supervisor. Moreover, while words were exchanged between the Claimant and his Supervisor concerning the work assignment, it was the Supervisor's choice of language, particularly when he included the Claimant's mother therein, that provoked the entire incident.

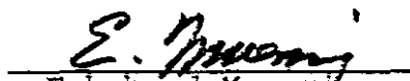
Certainly, the Organization's arguments are not without merit. The Supervisor does bear a heavy responsibility to adhere to

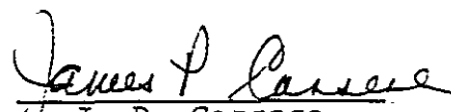
reasonable standards of conduct when he deals with his subordinates. His response to his Foreman's complaint about the work strained this standard. On the other hand, while there was a degree of provocation, it does not excuse the Claimant's refusal to do the work. Under these circumstances and with weight to the Claimant's 29 years of service, a ten-day suspension is not an unreasonable use of the Carrier's discretion.

AWARD

The claim is denied.


F. J. Domzalski
Carrier Member


Eckehard Muessig
Neutral Member


J. P. Cassese
Employee Member

APR 11 1985