

PUBLIC LAW BOARD NO. 3765

Parties
to the
Dispute

BROTHERHOOD OF MAINTENANCE OF
WAY EMPLOYEES

vs.

GRAND TRUNK WESTERN RAILROAD
COMPANY

Case No. 48

STATEMENT OF CLAIM

The dismissal of Trackman, Isadore Bonner, for alleged charges of insubordination, physical and verbal assault and violation of Grand Trunk General Rules 1, 8, 13, 15, and 20, was arbitrary, capricious and exceedingly harsh.

Claimant Bonner shall be reinstated to service with seniority and benefits unimpaired, his record cleared of the charges leveled against him and be compensated for all losses incurred.

OPINION OF THE BOARD

Isadore Bonner, the Claimant, entered Carrier's service on April 6, 1977. On the date of the incident that gave rise to this case, he was employed as a Trackman at Pontiac, Michigan. On July 2, 1990, Claimant was operating a front-

end loader at the site of a derailment in the North Yard at Pontiac. Claimant had just finished a job and he was told by his Supervisor to get off the machine and perform track work with the rest of the gang. Claimant left the property and returned within a short period of time. An argument developed between Claimant and his Supervisor. Carrier alleges that Claimant was insubordinate and threatened the Supervisor with a gun. As a result of this incident, he was charged and instructed to attend an investigation into the matter. The lengthy charges reads as follows:

To determine your responsibility, if any, for the following charges that resulted from your actions at approximately 2200 hours Monday, July 2, 1990, while working on a derailment on the West Lead of the North Yard in Flint, Michigan.

CHARGES: 1. Insubordination

- A. Refusing to comply with a directive from Roadmaster J.P. Maranzano, Jr. to dismount from the Front End Loader and assist the other Track Department employees in repairing the North Yard Lead.
- B. Leaving the property without authority while on duty to repair a derailment.

2. Physically assaulting Roadmaster J.P. Maranzano, Jr. by grabbing him about the shoulder and jerking the collar of his shirt.
3. Verbally and physically threatening Roadmaster J.P. Maranzano, Jr. with intent to do bodily harm with a hand gun.
4. Violation of the following rules of the "GT General Rules For Employees Not Otherwise Subject to the Rules for Conducting Transportation" effective July 1, 1976.
 - #1. To enter or remain in the service requires willingness to obey Company Rules and Instructions.
 - #8. The use or possession of firearms or any weapon while on Company property is prohibited except as authorized by proper authority to appropriate employees.
 - #13. Employees must not act in any way while on duty or while representing themselves as a Company employee, that would bring disrespect upon the Company. Examples of activity which could bring disrespect upon the Company and the employees are engaging in gambling or participating in illegal or immoral activities. Such actions could result in disciplinary action.

#15. Participation in any unauthorized activity while on duty or while on company property which may interfere with the performance of the work of any employee is prohibited.

#20. Faithful adherence to these Rules in the performance of our jobs is in the best interest of each employee and in turn of his or her fellow employees. Working professionally as a team with courtesy, safety and service utmost in mind will do much to insure the company's success and our own livelihoods.

An investigation into the matter was held on September 19, 1990, after numerous postponements. A transcript of that hearing has been made a part of the record. A review of that record reveals that Claimant was found guilty as charged and was dismissed from service. It also reveals that Claimant was afforded a full and fair hearing and that he received all procedural and substantive rights granted by Contract.

This Board has reviewed the record and the statements made by all witnesses at the investigation. The Board is persuaded as a result of this review that Claimant was insubordinate and that he did verbally and physically assault

the Roadmaster. The Board is also persuaded that Claimant did threaten the Roadmaster with a gun.

Carrier acted in an appropriate manner in this instance. Dismissal from service would have been an appropriate penalty in this case, in spite of Claimant's length of service, even if he did not have a poor work record. Threatening a Supervisor with a gun is not acceptable under any conditions.

AWARD

The claim is denied.

R.E. Dennis

R.E. Dennis,
Neutral Member

J.A. DeRoche
Carrier Member

K.R. Mason
K.R. Mason,
Employee Member

Date of Adoption