

Award No. 6
Case No. 10

Public Law Board No. 3794

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Seaboard System Railroad

STATEMENT
OF
CLAIM:

The dismissal of Trackman Washington Gay was in violation of the Agreement and he shall be reinstated with seniority and all other rights unimpaired, his record cleared and he shall be compensated for all wage loss suffered.

FINDINGS:

Claimant's dismissal stemmed from an incident that took place at work on September 29, 1982. Claimant resented remarks his gang foreman, E. J. Robinson, had made. Whether or not the remarks had been directed against claimant personally is not controlling; whatever their nature, and in this instance they do not appear to be extreme, there was no excuse for claimant to threaten Robinson with physical force or to use force. His proper course, if he felt aggrieved, was to refer the matter to his Local Chairman for appropriate action under the grievance machinery of the Agreement.

There is some evidence, however, that claimant did proceed to threaten Robinson and to strike him. These allegations are strongly denied by claimant.

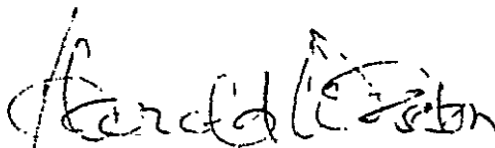
Carrier's finding that discipline is warranted is supported by substantial, though controverted evidence. We are not persuaded, however, that dismissal is appropriate on the basis of this record. Claimant will be reinstated but without back pay. The lengthy resulting suspension without compensation will emphasize the importance of the use by employees of the orderly and peaceful processes of the Agreement to settle disputes.

It must be entirely clear to all employees that this Board will uphold strong disciplinary action whenever an employee takes matters into his own hands and threatens or uses physical force.

AWARD:

Claimant reinstated with seniority rights unimpaired but without back pay. To be effective within 30 days.

Adopted at Jacksonville, Florida, May 30, 1985.



Harold M. Weston, Chairman


Carrier Member
Employee Member