

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CSX TRANSPORTATION, INC.

Case No. 25

STATEMENT OF CLAIM:

Five (5) day suspension assessed to W. J. Reddick, ID No. 175361 as a result of investigation held October 1, 1990, at Hialeah, Florida.

FINDINGS:

Claimant W. J. Reddick was employed by the Carrier as a trackman.

On September 27, 1990, the Carrier notified the Claimant to appear for a formal investigation in connection with the following charge:

This letter makes reference to meeting with you in my office at Hialeah, Florida, on September 26, 1990, at approximately 7:20 a.m.

I direct your attention to Page #1, Paragraph Six (6) of CSXT Safety Handbook, effective January 1, 1990 . . .

You are hereby charged with insubordination in connection with your boisterous, quarrelsome attitude at this meeting.

The hearing took place on October 1, 1990. On October 15, 1990, the Carrier notified the Claimant that he had been found guilty of the charge against him and was being assessed discipline of a five (5) calendar day suspension, the time to be designated by the roadmaster. The Organization thereafter filed a claim on the Claimant's behalf, challenging his suspension. The parties being unable to resolve the issues, this matter came

before this Board.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record that the Claimant was guilty of acting in a boisterous and quarrelsome manner toward his supervisor. The supervisor was merely indicating to the Claimant that the Claimant was not properly attired. The Claimant should have merely responded by going to his locker and changing into the shirt with sleeves. The Claimant, instead, engaged in a debate with the supervisor and accused the supervisor of harassing him. There was no call for that type of behavior and the Claimant was clearly guilty of inappropriate conduct.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

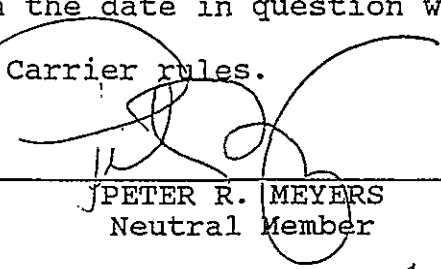
In the case at hand, the Claimant was not really insubordinate in the sense that he eventually went and changed into the appropriate shirt. However, he does need to be properly instructed that the workplace is not a debating society and that once given an order, he should immediately obey it. If he feels that it is not appropriate, he has a process in which he can file a grievance.

This Board has reviewed the nature of the offense that occurred here and looked at the Claimant's work record. The work

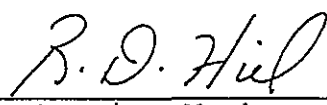
record indicates that the Claimant has been employed by the Carrier since 1979 and has not had any previous discipline. This Board finds that the action taken by the Carrier in suspending the Grievant for five days was excessive and unreasonable. Therefore, the claim will be sustained in part. The Claimant shall be made whole for the suspension, and it should be removed from his record. The Claimant should be issued a written warning indicating to him that when he receives a direct order from his supervisor, he should merely obey it and not engage in a debate with his supervisor or act boisterously and accuse the supervisor of discriminating against him.

AWARD:

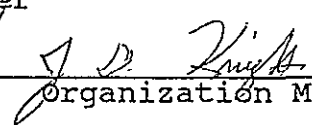
Claim sustained in part. The five (5) day suspension of the Claimant is hereby removed and Claimant shall be made whole for all lost pay and other benefits resulting from the suspension. The Claimant shall receive a written warning indicating to him that his behavior on the date in question was inappropriate and in violation of the Carrier rules.



PETER R. MEYERS
Neutral Member



Carrier Member



Organization Member

Date: 8/13/91