

NATIONAL MEDIATION BOARD, ADMINISTRATOR
SPECIAL BOARD OF ADJUSTMENT NO. 957

In the Matter of the Arbitration

-between-

Brotherhood of Maintenance of
Way Employees

OPINION AND AWARD
Award No. 277

-and-

Southeastern Pennsylvania
Transportation Authority

In accordance with the agreement in effect between the above-named parties, the Undersigned was designated as the Chairman and Neutral Member of the SEPTA-BMWE Special Board of Adjustment (the Board) to hear and decide the following Claim:

1. The dismissal of Reginald L. Morrow for poor job performance in connection with a minor incident involving a broken hydraulic fitting on a boom truck at Liberty Yard on February 1, 2008 is arbitrary, unjust, unwarranted and in violation of the Agreement (Carrier's File 08-110-F12).
2. As a consequence of the violation in Part (1) above, Claimant R. L. Morrow shall be made whole in accordance with the terms and conditions of the Agreement.

A hearing was held in Philadelphia, Pennsylvania on June 10, 2009 at which time the representatives of the parties appeared. All concerned were afforded a full opportunity to offer evidence and argument and to examine and cross-examine witnesses consistent with the relevant procedures that exist between the parties. The Board met in Executive Session after the hearing.

FINDINGS OF FACT AND OPINION OF THE BOARD

The record indicates that the present dispute arose due to

the decision of the Carrier to terminate the Claimant, a Construction Equipment Operator, who was operating a boom truck at Liberty Yard on February 1, 2008. The Claimant was operating one of four boom trucks at the time to enable a lengthy amount of rail to be hoisted. The Carrier asserted that the Claimant had improperly operated the boom truck and such improper operation caused damage to a hydraulic fitting. The Organization denied that the Claimant had operated the boom truck improperly and explained that the Claimant had moved the boom truck mechanism to avoid injuring another employee when another truck had approached the area.

As the Carrier terminated the Claimant, the Organization initiated a grievance to challenge the termination of the Claimant. The Carrier reiterated that just cause existed to terminate the Claimant and denied the Claim.

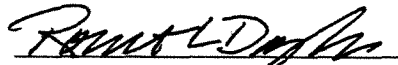
The parties failed to resolve the matter during the preliminary steps of the grievance procedure. The dispute proceeded to arbitration for a final and binding determination.

During the hearing the parties indicated that they had agreed to settle the instant dispute. As a result, the Award shall indicate that the Claim is dismissed.

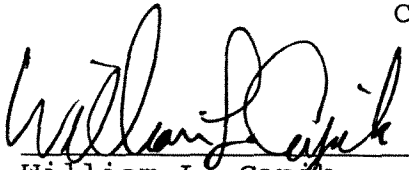
Accordingly, the Undersigned, duly designated as the Chairman and Neutral Member of the SEPTA-BMWE Special Board of Adjustment and having heard the proofs and allegations of the above-named parties, makes the following AWARD:

The Claim is dismissed in accordance with the

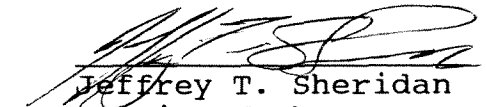
Opinion of the Board.



Robert L. Douglas
Chairman and Neutral Member



William L. Capik
Employee Member
Concurring/Dissenting



Jeffrey T. Sheridan
Carrier Member
Concurring/Dissenting

DATED: _____