

SPECIAL BOARD OF ADJUSTMENT NO. 986

CASE NO. 124

DOCKET NO. NEC-BMWE-SD-2435D

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

TO :

DISPUTE: NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

DISPUTE: Claim of the System Committee of the Brotherhood:

1. That the five-month disqualification as foreman of Claimant Raymond Costanzo for alleged violation of Amtrak Rules of Conduct Rule F on February 3, 1989, was unwarranted.
2. That the Carrier violated the Agreement; the discipline assessed the Claimant was harsh, arbitrary, capricious, and discriminatory; the charges brought by the Carrier were inaccurate; the trial was not fair and impartial; and the Carrier did not prove the charges assessed Claimant.
3. That the Claimant's discipline be overturned; that he be exonerated; and that he be made whole for any time lost and any reduction in wages.

FINDINGS:

Claimant Raymond Costanzo was employed by the Carrier as a foreman at Bear, Delaware.

On February 8, 1989, the Carrier notified the Claimant of the following charge:

Violation of Amtrak Rules of Conduct Rule F . . .
"All employees are required to conduct themselves in a courteous and professional manner in dealing with the public and other Amtrak employees. Boisterous conduct or horseplay and profane or vulgar language are prohibited.

Specification: On February 2, 1989, at the start of your shift, you conducted yourself in an unprofessional and irresponsible manner while employed as the Foreman in the bridge crew at the Bear Complex

After one postponement, the disciplinary hearing was held and completed on March 2, 1989. On March 16, 1989, the Carrier notified the Claimant that he was guilty of the charge brought against him and

was assessed discipline of a five-month disqualification as foreman. On March 17, 1989, the Claimant filed an appeal of his discipline, which appeal was denied on April 17, 1989. Thereafter, the Organization filed a claim on Claimant's behalf, challenging his discipline.

This Board has reviewed the procedural arguments raised by the Organization relating to the hearing and we find them to be without merit.

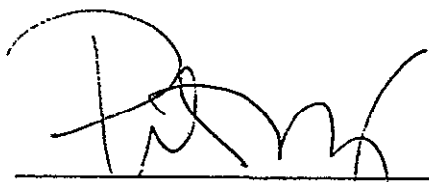
With respect to the substantive question, this Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating Rule F of Amtrak Rules of Conduct.

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 this case the Claimant was disqualified from his position as Foreman for a period of five months. Given his actions and the Carrier's desire to have Foremen behave in a professional manner, this Board cannot find that the action taken by the Carrier was unreasonable. Therefore, the claim must be denied.

Award

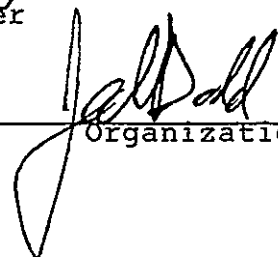
Claim denied.



Peter R. Meyers
Neutral Member



Patricia A. Empe
Carrier Member



Organization Member

10-1-90