

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 156

PARTIES: Brotherhood of Maintenance of Way Employes  
TO :  
DISPUTE: National Railroad Passenger Corporation (AMTRAK) -  
Northeast Corridor

STATEMENT OF CLAIM: "Claim of System Committee of the Brotherhood  
that:

1. The suspension of Machine Operator S. Cipot for alleged violation of Rule F was arbitrary, capricious and on the basis of unproven charges (System File BMWE-D-170D).
2. The Claimant shall have his record cleared of the charges leveled against him and paid for all wage loss suffered.

FINDINGS:

The Claimant, Steve Cipot, a machine operator headquartered in Chicago, was charged with allegedly making terroristic threats on the lives of several Carrier employees between the dates of October 5 and October 19, 1991, in addition to displaying pistol ammunition to another employee on September 23, 1991. The Claimant was assessed the discipline of enrolling in the Carrier's Employee Assistance Program, and the period up until completion of the treatment would be considered a suspension without pay.

The Organization contends that the Carrier failed to prove its charges and relied mainly on hearsay. Therefore, the claim should be sustained and all charges be removed from the Claimant's record and Claimant should be made whole.

The parties being unable to resolve the issues, this

matter came before this Board.

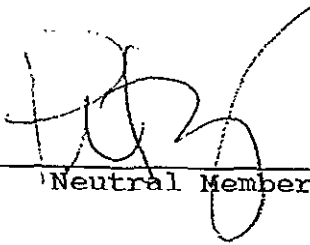
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was in violation of Rule F. The record contains substantial evidence that the Claimant issued terroristic threats on the lives on several members of his gang during a trip to Lancaster, Pennsylvania in October of 1991. The record also is clear that he displayed pistol ammunition that he had in his possession while at work. The Claimant offers that defense that the idea of killing was merely a dream. However, there is no question that he was in violation of the Rule.

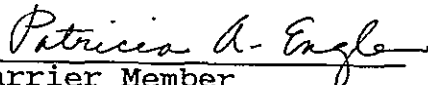
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition unless we find its action to have been unreasonable, arbitrary or capricious.

In the case at hand, the Claimant was issued a 34-day suspension during which time he was to enroll in the Carrier's Employees' Assistance Program and complete it successfully. Given the nature of the serious offenses involved here, this Board cannot find that the Carrier's action was unreasonable, arbitrary or capricious. There was a sufficient basis in the record to support the discipline imposed by the Carrier. Therefore, the claim will be denied.

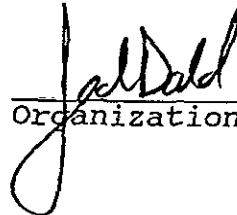
AWARD

Claim denied.

  
\_\_\_\_\_  
Neutral Member

  
\_\_\_\_\_  
Carrier Member

Date: 9-27-93

  
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Organization Member