

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 65

Docket No. NEC-BMWE-SD-1883

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

On April 27, 1987, Claimant V. Coleman was employed as a trackman by Carrier at its Odenton, Maryland, facility. On April 29, 1987, Claimant was directed to attend an investigation of the charge:

Violation of the National Railroad Passenger Corporation - Amtrak's Rules of Conduct, Rule "F", #1, which reads as follows:

"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 and vulgar language are prohibited."

Violation of the National Railroad Passenger Corporation - Amtrak's Rules of Conduct, Rule "L" which reads as follows:

"Employees must obey instructions, directions, and order from Amtrak supervisory personnel and officers except when confronted by clear and immediate danger to themselves . . . Insubordinate conduct will not be tolerated."

Specifications: In that on Monday, April 27, 1987 in the vicinity of Milepost 103.5, No. 2 Track, at approximately 6:16 A.M., you were insubordinate to Foreman E.L. Smith when instructed to put clips and insulators on #2 Track, and used profane and vulgar language.

The hearing took place on May 19, 1987, and as a result, Claimant received a forty-five-day suspension. The Organization thereafter filed a claim on Claimant's behalf, challenging the suspension.

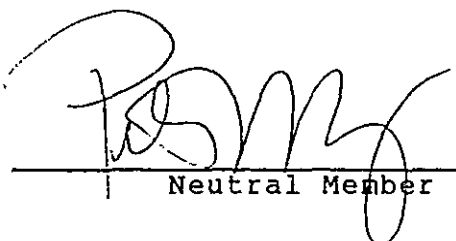
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of the offenses with which he was charged.

Once this Board has determined that there is sufficient evidence

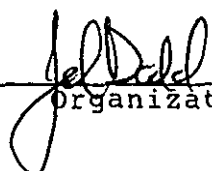
in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not substitute its judgment for the judgment of a carrier with respect to the imposition of discipline unless we find the actions of the carrier to have been unreasonable, arbitrary, or capricious. In this case, a 45-day suspension cannot be found to be unreasonable given the nature of the offense and the disciplinary background of the Claimant. Therefore, the claim will be denied.

Award:

Claim denied.

  
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Neutral Member

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

  
\_\_\_\_\_  
Organization Member

Date: 8-18-88