

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 76

Docket No. NEC-BMWE-SD-2042D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant M. Gibson is employed as a trackman by Carrier at its Adams, New Jersey, facility. On December 9, 1987, Claimant was directed to attend a hearing in connection with the following charges:

Charge: Violation of Rule "F" of the National Railroad Passenger Corporation Rules of Conduct which reads in part:

1. "All employees are required to conduct themselves in a courteous and professional manner in dealing with . . . other Amtrak employees. Boisterous conduct or horseplay and profane or vulgar language are prohibited."

2. "Employees will not . . . threaten, harass, intimidate, . . . or participate in any activity which could cause bodily injury to other employees . . . while on duty or on Amtrak property or using Amtrak equipment. Employees, whether on or off duty, will not disrupt or interfere with other employees in the performance of their duties."

in that, on the night of December 8-9, you allegedly harassed, threatened and intimidated Truck Driver Daryl Dudden, used profane and vulgar language to him and attempted to interfere with his performance of his duties.

The hearing took place on December 15, 1987, and as a result, Claimant was assessed a ninety-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 engaging in boisterous conduct and threatening behavior toward a truck driver.

Once this Board has determined that there is sufficient evidence in the record to support a guilty finding, we next turn our attention

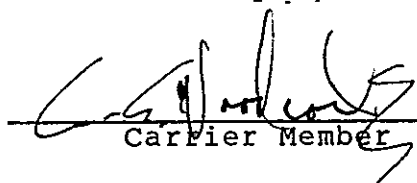
to the type of discipline imposed. This Board will not set aside a carrier's imposition of discipline unless we find it to have been unreasonable, arbitrary, or capricious. The Claimant in this case has previously been suspended on three occasions for the same offense. Apparently, those suspensions have been falling on deaf ears, and the Claimant has not begun to reform his behavior. Therefore, this Board cannot find that the action taken by the Carrier in assessing a 90-day suspension against the Claimant for the same type of activity in this case was unreasonable, arbitrary, or capricious. Therefore, the claim will be denied.

Award:

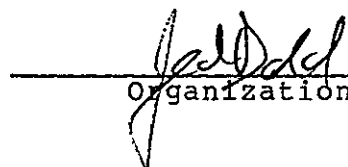
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 11-16-88