

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 98

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO :
DISPUTE: NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) -
NORTHEAST CORRIDOR

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

1. The dismissal of Trackman T. Gregg for alleged violation of Rule F, Part 2 was arbitrary, on the basis of unproven charges and in violation of the Agreement (System File NEC-BMWE-SD-2248D).
2. The Claimant shall be reinstated with seniority and all other rights unimpaired, he shall have his record cleared of the charge leveled against him and he shall be compensated for all wage loss suffered.

FINDINGS:

Claimant T. Gregg was employed as a trackman by Carrier. On June 27, 1988, Claimant was instructed to attend an investigation in connection with the following charge:

"In that on Thursday, June 23, 1988, at approximately 12:30 p.m., you entered my office and gave Mrs. Hesse a hard time about getting your paycheck. She tried to explain to you that you could not get your check until 3:00 p.m. You then started screaming and calling her names, disrupting her work."

The hearing was held on July 13, 1988, and as a result, Claimant was dismissed from service. The Organization thereafter filed a claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the procedural arguments raised by the Organization 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 the charge of threatening, harassing, and intimidating a fellow employee.

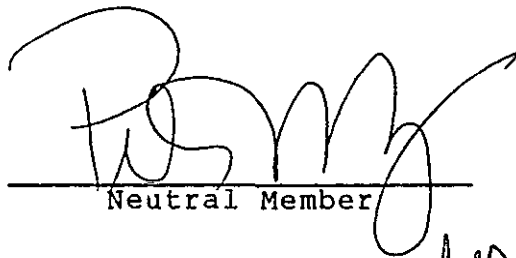
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Once this Board has determined that there is sufficient evidence in the Record to suport the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a carrier's imposition of discipline unless we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

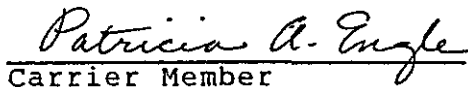
The Claimant engaged in a very serious wrongdoing. His action, coupled with the shortness of his seniority, leads this Board to find that the Carrier did not act unreasonably, arbitrarily, or capriciously, when it terminated his employment. Therefore, the claim must be denied.

AWARD

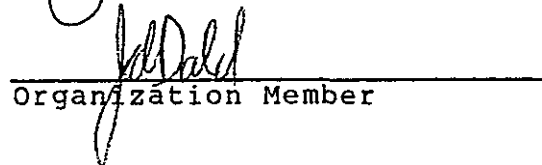
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 10-17-89