

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
versus  
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT  
OF CLAIM:

Claim of the Committee that:

1. Carrier violated the effective Agreement by unfairly dismissing Trackman S. L. Herrell from Carrier's service as of May 12, 1975.
2. Claimant Herrell shall now be returned to the position of Trackman on the Illinois Division with all seniority rights, pass privileges, vacation rights unimpaired as well as his restoration of all other rights and privileges accruing to him, which could have been his under the provisions of various Agreements, if he had not been dismissed from the service of the Carrier on May 12, 1975, and that he be paid for all time lost that he has suffered on account of dismissal, claim to run concurrently until Mr. Herrell is returned to service.

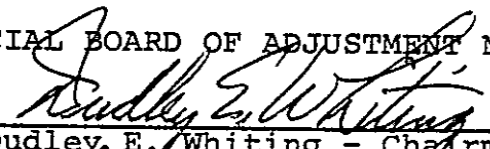
FINDINGS: Claimant physically assaulted an Assistant Roadmaster. This is generally regarded as misconduct justifying dismissal. It is contended that such assault was provoked by supervisory harassment.

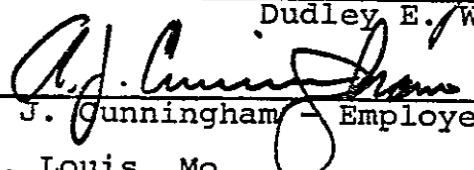
The contract, which establishes and protects employment tenure, contains a procedure for the handling of employee complaints and grievances, so a complaint encompassed thereby cannot justify a direct physical assault by an employee upon a supervisor.

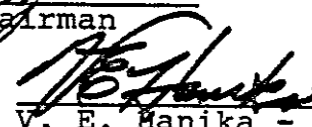
Hence this claim is not sustainable,

AWARD: Claim denied.

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Dudley E. Whiting - Chairman

  
A. J. Cunningham - Employee Member

  
V. E. Manika - Carrier Member

St. Louis, Mo.  
November 18, 1977  
File: 247-5288