

Award No. 37
Case No. 39

Special Board of Adjustment No. 956

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees
and
New Jersey Transit Rail Operations, Inc.

STATEMENT OF CLAIM:

Appeal on behalf of Trackman K. Hagens from his dismissal.

FINDINGS:

On August 5, 1987, claimant refused to comply with Foreman Calo's instructions to place ties. He was taken before Track Supervisor Robinson who reminded him of his obligations to comply with any instructions given by a supervisor.

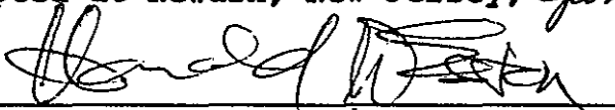
While claimant and Foreman Calo were proceeding back to the work site, claimant threatened Calo with physical harm. After they had reached the work place, claimant threw a hard hat at Calo, striking him in the chest with it.

We are satisfied that the instructions in question were issued by competent authority in the course of a work assignment and were unambiguous. A foreman at work is not required to put up with such insubordinate and uncalled for conduct. The claim will be denied.

The fact that the hearing in this matter was held in claimant's absence does not call for a contrary result. Claimant was duly notified of the time and place of hearing. An employee will not be permitted to frustrate the hearing process and avoid discipline by failing to appear for hearing.

AWARD: Claim denied.

Adopted at Newark, New Jersey, June 23, 1988.


Harold M. Weston, Chairman


Carrier Member


Employee Member