

SPECIAL BOARD OF ADJUSTMENT NO. 986

CASE NO. 114

DOCKET NO. NEC-BMWE-SD-2466D

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

TO :

DISPUTE: NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

DISPUTE: Claim of the System Committee of the Brotherhood:

1. The dismissal of N. Gantz for alleged violation of N.R.P.C. Rules L and F-1 on May 23, 1989, was arbitrary, capricious, without just and sufficient cause, and wholly disproportionate to the offense charged.

2. The Claimant shall be reinstated to service with all seniority and benefits unimpaired, and he shall be compensated for all wage loss suffered.

FINDINGS:

Claimant N. Gantz was employed by the Carrier as a truck driver at its Penn Coach Yard in Philadelphia, Pennsylvania.

On May 23, 1989, the Carrier notified the Claimant that he was to be held out of service in connection with an incident that occurred on that date. On May 31, 1989, the Claimant was notified by the Carrier of the following charges:

Violation of N.R.P.C. Rules of Conduct Rule L and F-1

Specification: On May 23, 1989, you allegedly failed to comply with directives from General Foreman R. Lano and then later on Foreman H. Thomas to give vehicle AB44436 and the keys to it to another employee for temporary use at another location. Upon being instructed by Foreman Thomas to Comply with this directive, you became uncooperative and quarrelsome with Mr. Thomas.

The disciplinary investigation took place on June 9, 1989. On June 23, 1989, the Carrier notified the Claimant that he was guilty of all charges and was assessed discipline of dismissal in all capacities effective immediately. Thereafter, the Organization filed a claim on

the Claimant's behalf, challenging his dismissal.

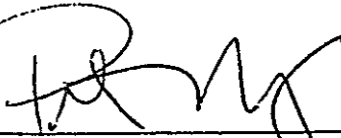
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating Rules L and F1 prohibiting insubordinate conduct and requiring employees to conduct themselves in a courteous manner in dealing with other Amtrak employees. The record in this case is clear that the Claimant became uncooperative and quarrelsome with his foreman and failed to comply with the foreman's instructions. Numerous boards have held that the work place is not a debating society and that if an employee disagrees with his foreman's assignment, he must perform it and then grieve it later.

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 set aside a carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

The record reveals that this same Claimant has received a previous 15 day suspension for quarreling with another employee and a 30 day suspension for an argument with his foreman. The Carrier has imposed progressive discipline upon this Claimant in an effort to aid him in reforming his behavior. However, his action in this case demonstrates to this Board that he has not learned his lesson. This Carrier had a sufficient basis to impose dismissal on the Claimant in this case. Therefore, the claim must be denied.

Award

Claim denied.



Peter R. Meyers
Neutral Member

Patricia A. Engle
Carrier Member



Organization Member

Date: 10-1-90