

SPECIAL BOARD OF ADJUSTMENT NO. 986

CASE NO. 121

DOCKET NO. NEC-BMWE-SD-2324D

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

TO :

DISPUTE: NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

DISPUTE: Claim of the System Committee of the Brotherhood:

1. That the formal reprimand of Claimant Charles Cortez for alleged violation of N.R.P.C. (Amtrak) Rules of Conduct Rule L on September 15, 1988, was unwarranted.
2. The Carrier has completely admonished the safety issue.
3. The Claimant should be immediately exonerated and this entire matter should be expunged from his record.

FINDINGS:

Claimant Charles Cortez was employed by the Carrier as a trackman at Lorton, Virginia.

On September 23, 1988, the Carrier notified the Claimant of the following charge:

Violation of N.R.P.C. Rules of Conduct Rule L, which states, in part . . . "Obeying Instructions - Employees must obey instructions, directions, and orders from Amtrak supervisory personnel . . . except when confronted by a clear and immediate danger to themselves, property, or the public."

When, at approximately 12:30 p.m., Thursday, September 15, 1988, it is alleged by track foreman G. T. Johnson that you failed to comply with his instructions to move cross ties while working at the Amtrak Auto-Train facility at Lorton, Virginia.

After one postponement, the disciplinary investigation was held on October 26, 1988. On November 9, 1988, the Carrier notified the Claimant that he had been found guilty of the charge brought against him and was assessed discipline of formal reprimand. On November 18,

1988, the Claimant filed an appeal of his discipline, which appeal was denied by the Carrier on December 16, 1988. Thereafter, the Organization filed a claim on Claimant's behalf, challenging his discipline.

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 Carrier's finding that the Claimant was guilty of violating Rule L when he failed to obey instructions from his supervisor.

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.

This Board has held in the past that insubordinate actions on the part of employees can lead to discharge. The Claimant in this case only received a formal reprimand. Since he clearly did not obey his supervisor, this Board cannot find that the action taken by the Carrier was unreasonable. Therefore, the claim will be denied.

Award

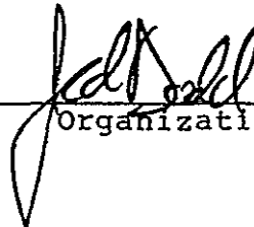
Claim denied.



Peter R. Meyers
Neutral Member



Carrier Member



Organization Member

10-1-90