

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 50

Docket No. NEC-BMWE-SD-1795D

PARTIES: Brotherhood of Maintenance of Way Employees
TO :
DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant B. Winchester was employed as a track foreman by Carrier at its Odenton, Maryland facility. On March 11, 1987, Claimant was notified to attend an investigation of the following charges:

Violation of National Railroad Passenger Corporation - Amtrak Rules of Conduct, Rule 'F-5,' which reads as follows:

"Employees must not sleep on duty, and must not be so inattentive to their jobs as to appear to be sleeping."

Specifications: In that on March 9, 1987 at approximately 4:00 a.m. in the vicinity of M.P. 126.8, you were observed by J.A. Toler, Jr., Assistant Supervisor Track, in Amtrak vehicle #AB43980, stretched out across the seat, assuming the attitude of sleep and not attending to your job, while equipment in your charge was occupying main line track that was out of service.

and

Violation of National Railroad Passenger Corporation - Amtrak Rules of Conduct, Rule 'F-1,' which reads in part as follows:

"All employees are required to conduct themselves in a courteous and professional manner in dealing with . . . other Amtrak employees. Boisterous conduct . . . and profane or vulgar language are prohibited."

Specifications: In that on March 9, 1987 in the vicinity of Odenton MW Base Supervisor's office, at approximately 5:45 a.m., you were discourteous to B.E. Hogan, Supervisor Track and J.A. Toler, Jr., Assistant Supervisor Track, with boisterous conduct and profane and vulgar language.

The hearing was held on March 24, 1987, and as a result, Claimant was assessed a fifteen-day suspension for each of the two rule violations. The Organization thereafter filed a claim on Claimant's behalf, challenging the suspensions.

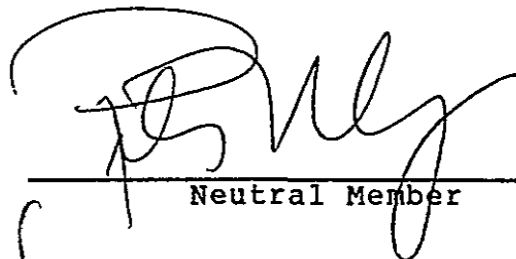
This Board has reviewed the evidence and testimony in this case,

and we find that there is sufficient evidence in the record that the Claimant was guilty of the offense of sleeping on the job. Moreover, there is sufficient evidence in the record to support the finding that the Claimant used profane and vulgar language toward his supervisor on that same date.

Once this Board has found that there is sufficient evidence in the record to support the guilty finding, we next review the type of discipline imposed. In this case, the Claimant received a five (5) day suspension for the two offenses. Since both of the offenses can often lead to dismissal, this Board can find nothing unreasonable, arbitrary, or capricious about the discipline imposed by the Carrier. Therefore, the claim must be denied.

Award:

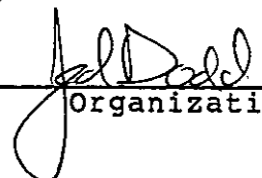
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 4-12-88