

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 72

Docket No. NEC-BMWE-SD-2017D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The dismissal of Repairman R.C. Majetich for alleged violation of Rule 'F', Part 2 on June 11, 1987, at approximately 3:00 A.M., at the WAWA parking lot located at Old Route 13 and Penn Valley Road, Falls Township, Pennsylvania, was arbitrary, capricious, on the basis of unproven charges and in violation of the Agreement (System File NEC-BMWE-SD-2017D).
2. The Claimant shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage and benefit loss suffered."

FINDINGS:

Claimant R. Majetich was employed as a repairman by Carrier at its New Brunswick, New Jersey, facility. On June 19, 1987, Claimant was removed from service and directed to attend a hearing in connection with the following charges:

Alleged violation of Rule "F," part 2, of the NRPC (Amtrak) Rules of Conduct, which reads in part as follows:

Rule "F," Part 2, . . . "Employees will not threaten . . . other employees or members of the public while on duty"

Specification: In that on Thursday, June 11, 1987, at approximately 3:00 a.m., at the WAWA [convenience store] parking lot located at Old Rt. 13 and Penn Valley Road, Falls Township, Pennsylvania, you made threats against the lives of Equipment Engineer Michael Marino and members of his family.

The hearing took place on November 24, 1987, and as a result, Claimant was dismissed from the Carrier's service. The Organization thereafter filed a claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the procedural claims raised by the Organization, and we find them to be without merit.

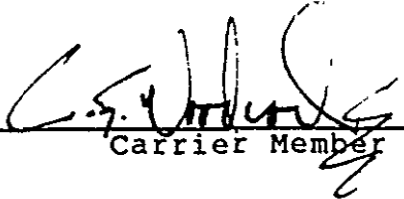
With respect to the substantive issues, this Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of the offenses with which he was charged. Therefore, the Carrier had sufficient basis upon which to impose discipline.

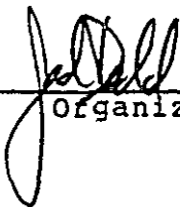
Once this Board has determined that there is sufficient evidence in the record to support a guilty finding, we next turn our attention to the type of discipline imposed. This Board will normally not set aside a carrier's imposition of discipline unless we find it to be unreasonable, arbitrary, or capricious. This Claimant was properly found guilty of making very serious threats against the members of the family of another employee of the Carrier. That is a very serious charge; and despite the long tenure of the Claimant, as well as the fact that he had no previous discipline on his record during the ten years he was employed by the Carrier, this Board must find that the Carrier was within its rights when it determined that dismissal was the appropriate action to be taken in this case. Although the Claimant states that his threats against the fellow employee's children were "nonsense," these days those types of comments have to be taken seriously. The other employee was clearly concerned about those threats, and the Carrier took tough and appropriate action within its own discretion. This Board cannot find that the action taken by the Carrier was unreasonable, arbitrary, or capricious given the nature of the threat. Therefore, the claim must be denied.

Award:

Claim denied.



Neutral Member

Carrier Member

Organization MemberDate: 10/4/88