

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 77

Docket No. NEC-BMWE-SD-2044D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant C. Clayton was employed as a trackman by Carrier at its Philadelphia, Pennsylvania, facility. On January 20, 1988, Claimant was notified to attend a formal investigation in connection with the charge:

Violation of the National Railroad Passenger Corporation's Rules of Conduct, Rule F, reading in part:

1. All employees are required to conduct themselves in a courteous and professional manner in dealing with the public and other Amtrak employees. Boisterous conduct or horseplay and profane or vulgar language are prohibited.
2. Employees will not assault, threaten, harass, intimidate, fight or participate in any activity which could cause bodily injury to other employees or members of the public while on duty . . .

Specification: In that on January 18, 1988 at approximately 11:45 P.M., and again at approximately 4:45 A.M., you allegedly were in the Wawa Convenience Store at 1409 Market Street in Linwood, Pennsylvania and behaved in a disorderly manner by directing profane and vulgar language at the Gang Foreman and the store clerk. Also, at the same time you allegedly threatened to cause bodily harm to your gang foreman and other members of the gang.

The hearing took place on January 27, 1988, and as a result, Claimant was dismissed from service. The Organization thereafter filed a claim on 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 engaging in boisterous conduct and profane and vulgar language, as well as threats directed toward his foreman and other members of his gang. The Claimant

admittedly told another Carrier employee that he was going to "cut your heart out." That behavior is clearly a violation of Rule F.

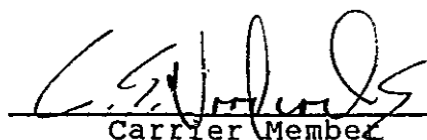
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find the action of the Carrier to be unreasonable, arbitrary, or capricious. Given the nature of the offense and the fact that this Claimant has been suspended twice for violations of a similar nature, this Board cannot find that the action taken by the Carrier was wrongful. Therefore, the claim must be denied.

Award:

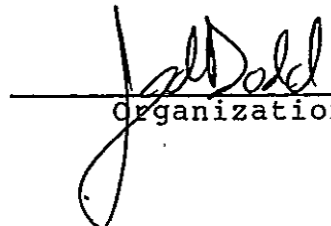
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 12/30/88