

Harris #1

IN THE MATTER OF ARBITRATION BETWEEN:

Employer

AND

UNION

Appointment

Under Title II of the Railway Labor Act, as amended, the parties entered into a collective bargaining agreement effective January 25, 1999, which provides for the arbitration of disputes in Article 16. Robert O. Harris was designated as the arbitrator to hear and decide the issues involved in the instant case.

The arbitration hearing was held on February 14, 2001. The parties presented testimony, written evidence and arguments to support their respective positions. The hearings are complete and the matter in dispute is ready for final decision.

Facts

The Employee was working as a maintenance controller on January 5, 2000, when another employee, Person 1, who was on his last day of work, made a derogatory remark, apparently directed at the Employee. The Employee thereupon left his work place and went home without speaking to a supervisor.

The Employee testified that he was standing 6 or 8 feet away from Person 1 who was talking to another employee, "and for whatever reason, Person 1 looked me square in the eye and said something regarding 'that idiot behind you.' I wasn't privy to their whole conversation.

I wasn't trying. But I looked him right in the eye. He was looking at me when this remark came across." The Employee continued his testimony saying, "I just sat there for a while, thinking you know, what should I do about this situation? And the longer I sat there, the more upset I became. I finally thought, if I should I go to management? Should I leave? Should I just forget about it? Because I knew it was Person 1's last day on the job. What should I do?" The Employee decided to "remove" himself from the situation and when he did not see his supervisor, he left.

The Employee testified that he had worked for the Employer from February 22, 1999 to January 5, 2000, and was 61 years old when he was hired. He had never worked as an A&P mechanic before, but had held his airframe license for many years and decided to obtain his power plant license several months before he began work as a mechanic for the Employer. He stated that "for the 12 years prior to joining the Employer, I was employed by Service Master as a contract manager, served (sic) in long-term healthcare institutions as a director of environmental service."

The Employee testified that the first crew with which he worked after orientation was a senior crew whose members resented the fact that as a new employee he was getting weekends off.

After 60 days he was evaluated and was transferred to another crew. The Employee said he felt as though he was part of the second crew and that things were going well. However, at the end of May he developed a problem with his right shoulder and went on disability leave. When he came back he was placed on light duty in the accessory shop. A problem developed because an employee, Person 2, thought that the Employee was taking the job which was rightfully his, because of his light duty. The Employee worked in the accessory shop for two months and was then released from light duty. He was then assigned to the shop floor on the evening shift. After a few days, problems began to develop, because the other members of the crew would not work with him, especially Person 2. The Employee complained to supervision and was reassigned to

do other work. Later, the Employee was assigned overtime work which caused other employees to complain. Around the end of November or the beginning of December, the Employee was asked whether he would like to go into maintenance control and he agreed to do so. He was being trained in maintenance control when the incident occurred on January 5, 2000.

Discussion

There is no factual dispute in this case. The only question is whether, as the Employee claims, he was treated differently than other employees. If not, was there just cause for his discharge?

The Employee was a new mechanic working on the shop floor. He was also older than his fellow workers. He admitted that he asked lots of questions and always wrote down the answers he was given. The Employee also complained that he was not given the more interesting assignments, and that his fellow workers did not want to work with him. On the other hand, the evaluations which were given of him by his fellow employees were not good. He was not skilled and apparently was not able to work effectively. Because he was older and had conversations with the director of maintenance, the Employee was apparently considered to be a Employer spy by his fellow workers. Clearly they were hazing him. However, relationships on the shop floor are not always polite and if you can't take the heat, you should not stay in the kitchen. Furthermore, the Employee's injury caused him to receive "special" treatment exacerbating the problem. The Employee took the wiser course by transferring to maintenance control. It was unfortunate that he overheard Person 1, but the Employee's reaction to the remark was out of proportion to what was said. It cannot justify the Employee's abandonment of his job and his leaving the work place without any communication to a supervisory employee. The fact that earlier, he was given permission to leave his job when there was sickness in his family, rather than excusing his

subsequent action, shows that he knew what was required for him to leave his job during a shift.

The Employer clearly had just cause to discharge the Employee.

Award

The grievance is denied.