

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

WALKER THURMAN

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: That petitioner be restored to his job as section laborer with all seniority rights and privileges acquired prior to his dismissal from employment, and that he be awarded back pay and attorney fees.

OPINION OF BOARD: This is a discipline case, and, while some technical issues are raised by both parties to this dispute concerning the manner in which this case had been handled on the property, in view of the decision reached on the merits based upon the record it is unnecessary to comment upon the technical issues raised. The record shows that Claimant was charged "with disregarding instructions and insubordination"; that a hearing was held on May 9, 1953, at the request of the Local Chairman, to whom the case had been turned over by the General Chairman for handling; that Claimant was represented at the hearing by the Local Chairman; that the record of the hearing contains evidence, including Claimant's own admissions, which supports the charge, and shows that this was not the first offense of the same kind for which Claimant was previously disciplined. In such circumstances, the claim is without merit and must be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier did not violate the agreement and the disciplinary action should stand.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 10th day of January, 1957.