



Award No. 15645
Docket No. MW-16490

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Wesley Miller, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**SOUTHERN PACIFIC COMPANY
(Pacific Lines)**

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

(1) The dismissal of Grinder Helper A. M. Molina from service on February 14, 1966, for allegedly "failing to exercise care in the performance of your duties and provide proper protection for Grinder Felix Perezchica, resulting in his being struck by lite engine" was without just and sufficient cause and on the basis of unproven charges. (Carrier's File 94103)

(2) The claimant be reinstated to service with seniority, vacation and all other rights unimpaired; the charge be stricken from the record and reimbursement be made for his net wage loss as per Rule 45 (b) of the effective Agreement.

OPINION OF BOARD: After careful study of the record, which includes a transcript of the testimony taken at the hearing on the property, and of the argumentation made by the parties and in their behalf, we do not believe that the complained-of action of the Carrier was either arbitrary, capricious, or in violation of due process of law, nor can we conclude that the effective Agreement was violated.

Therefore, the Claim is denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees 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 Agreement was not violated.

AWARD

Claim denied.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 16th day of June 1967.