



Award No. 16118
Docket No. CL-16880

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

PACIFIC FRUIT EXPRESS COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6236) that:

(a) The Pacific Fruit Express Company violated terms of the Agreement when at El Paso, Texas, on October 11, 1966, it improperly dismissed Mr. G. H. Vasquez from the service;

(b) The Pacific Fruit Express Company shall now be required to reinstate Mr. G. H. Vasquez with seniority unimpaired and compensate him for all wage loss from September 29, 1966, the date he was held out of service.

OPINION OF BOARD: This is a disciplinary case, wherein Claimant, after refusing to obey the orders of his superior, was properly charged, and after investigation at which he was represented by Counsel of his own choosing, was dismissed from the service of the Carrier.

The transcript of the hearing has been reviewed. It is clear from a reading of it, that Claimant did refuse to follow the orders of his superior. There appear to be no mitigating circumstances in this case which would warrant us to interfere with the decision of the Carrier in this matter. Carrier's decision is based on substantial evidence, which was not denied or controverted by Claimant. The latter was represented by Counsel of his own choosing, who was given appropriate latitude in the questioning of witnesses. We conclude that the trial was eminently fair, and that the final decision was based on the facts of record. We will deny the claim.

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 by the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 1st day of March 1968.