

**Award No. 16699**  
**Docket No. MW-17434**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Arthur W. Devine, Referee**

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**  
**ILLINOIS CENTRAL RAILROAD COMPANY**

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

(1) The dismissal of Mr. C. O. Raes as a section foreman was without just and sufficient cause, on the basis of unproven charges and without benefit of a fair and impartial hearing. (System Case No. 443 MofW/IA. - 15-T-66)

(2) Mr. C. O. Raes be restored to his position as a section foreman with his seniority, vacation and all other rights unimpaired, the charge stricken from his record and he be paid for all monetary loss suffered in accordance with Rule 25(i).

**OPINION OF BOARD:** Claimant was a section foreman in charge of a 17-mile stretch of track in and around Woodbine, Iowa. On November 2, 1966, 30 cars of an 82-car freight train were derailed near Woodbine, on the stretch of track in charge of Claimant.

On November 7, 1966, Claimant was notified to attend investigation on November 15, 1966, to determine the facts, and his responsibility, if any, for the derailment that occurred on November 2. In the notice of November 7, 1966, the Claimant was charged with violation of certain specific Maintenance of Way and Structures Rules, namely, General Notice, Rules 8, 11, 12, 18, 225 and 242.

At the investigation conducted on November 15, 1966, the Claimant was represented by the General Chairman and the Local Chairman of the Organization. Following the investigation, Claimant was notified, on November 21, 1966, that he was discharged as section foreman, but was permitted to exercise his seniority rights as section laborer. In effect, the discipline imposed amounted to a demotion.

A transcript of the investigation has been submitted by each party to the dispute. A careful study of the transcript convinces us that none of Claimant's substantive rights under the Agreement were violated.

The transcript of the investigation contains substantial evidence in support of the charges against the Claimant, and it is clear that he was

derelict in the performance of his duties as foreman. As the Board has previously stated, we are aware of the high degree of care under which a Carrier is required to operate concerning matters of safety, and that in order to execute this duty, it must insist that its employes faithfully and carefully execute the responsibilities which devolve upon them (Award 14066). We are not unmindful of Claimant's years of service with the Carrier. However, years of service alone does not give an employe a right to violate rules or fail to properly perform his duties.

Based upon the entire record, we do not find that the action of the Carrier in this case was arbitrary or capricious or that it acted in bad faith. There is no proper basis for disturbing the action of the Carrier, and the claim will be 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 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 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 30th day of October 1968.