



Award Number 17750

Docket Number MW-18411

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
PORT TERMINAL RAILROAD ASSOCIATION**

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

- (1) The Carrier's dismissal of Trackman M. T. Gilbert was improper and without just and sufficient cause.
- (2) Trackman M. T. Gilbert be reinstated with seniority, vacation and all other rights unimpaired and that he be compensated for all wage loss suffered, all in accordance with the provisions of Rule 11(e).

OPINION OF BOARD: Claimant, who was first hired by the Carrier on February 16, 1966, was dismissed from service on August 20, 1968 because of insubordination and absenteeism without just cause.

A careful reading of the transcript of the investigation shows that the Claimant was not only absent without good cause on Friday, August 16 and Monday, August 19, 1968, but he was insubordinate and unresponsive to reasonable inquiries for his absence when he reported for work on Tuesday, August 20, 1968. There is substantial evidence in the record to sustain a finding that the Claimant was guilty as charged. The reasons alleged by the Claimant for his absences and for his conduct on August 20, 1968 are not substantiated by credible evidence in the record. Under these circumstances we may not substitute our judgment for that of the Carrier. It is not the function of the Board to measure the quantum of discipline to be imposed.

In the absence of any showing that Carrier's action was arbitrary, capricious or discriminatory, the claim must 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 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.

A W A R D

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 25th day of February 1970.