

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 19712
Docket Number NW-19902

C. Robert Roadley, Referee

(Brotherhood of Maintenance of Way **Employees**

PARTIES TO DISPUTE:(

(New Orleans Public Belt Railroad

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

(1) The dismissal of **Trackman** Warren Meyers was **without just** and sufficient cause and was on the basis of unproven and disproven charges. (Carrier's file 013.7)

(2) **Trackman** Warren **Meyers** shall be restored to service, with seniority and all **other rights** unimpaired; the charge be stricken from his record; payment be made for assigned working hours lost - all in accordance with Rule **16(f)**.

OPINION OF BOARD: This is a discipline case involving dismissal of a **trackman** for alleged insubordination to Track **Supervisor** on April 4, 1972.

We have reviewed the entire record, including the transcript of hearing conducted on April 20, 1972. We find that claimant's actions on April 4, 1972, warranted some discipline, but under the circumstances involved, permanent dismissal was excessive. We will award that claimant be restored to service with seniority and other rights unimpaired, but without pay for time lost while out of service. It appears that the claim for pay for time lost may not have been properly progressed, but in view of our decision on the merits it is not necessary to pass on this issue.

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 Employee 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 discipline imposed was excessive.

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Claim sustained to extent indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 13th day of April 1973.

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