

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20762  
Docket Number MW-20656

Robert A. Franden, Referee

(Brotherhood of Maintenance of Way **Employees**  
PARTIES TO DISPUTE: (  
(Missouri-Kansas-Texas Railroad Company

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

(1) The suspension of Extra Gang Foreman I. L. Sedlar from April 9 to May 8, 1973 (both dates inclusive) was without just and sufficient cause and on the basis of unproven charges (System File **400-74/2579-23**).

(2) The charge be **removed** from the claimant's record and the claimant shall be paid for time lost - all in accordance with Article 23, Rule 6 of the Agreement No. **DP-357**.

OPINION OF BOARD: Claimant was suspended from the service of the Carrier for thirty (30) days for an alleged violation of Rules C and I of the Carrier's operating rules.

Said rules read in part:

"Rule c. **"Employees** must be conversant with and obey the rules and special instructions-\*."

"Rule I. **"\*\*\*All employees** are expected to **\*\*\*** promptly obey instructions from the proper authority in matters pertaining to their respective branches of the service."

Said suspension was rendered subsequent to a properly held investigation.

In essence, the Claimant was disciplined for failure to follow the Division Engineer's instructions to install certain rail anchors. The Claimant maintains that the time element **interferred** with his complying with the instructions on the day in question.

The record reflects that at the investigation sufficient evidence of probative value was adduced from which a reasonable man could conclude that Claimant was guilty of the offense charged. Under such circumstances, we shall not substitute our judgment for that of the Carrier.

We have been urged to find that the punishment was excessive, notwithstanding the guilt of the Claimant. We find nothing to **support** this position.

Award **Number** 20762  
Docket **Number** I-M-20656

Page 2

**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:

*A. W. Parker*  
Executive Secretary

Dated at Chicago, Illinois, this 18th day of July 1975.