

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20786
Docket Number Mu-20649

Francis X. Quinn, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way **Employees**
(The Texas and Pacific Railway Company

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

(1) The dismissal of Track Foreman Joe Sampson was capricious and unwarranted, based upon unproven charges and in violation of the Agreement. (System File K-247-5062)

(2) Track **Foreman** Joe Sampson be reinstated with seniority, vacation and all other rights unimpaired and that he be made whole for all wage loss suffered, all in compliance with Rule 12, Section 1(e).

OPINION OF BOARD: A review of the record leaves questions as to **the** factual circumstances arising on date in question. The Claimant was absent from his crew. Whether his absence arose during Claimant's lunch hour or exceeded the allowable time is open for some speculation.

The Carrier seems to have recognized dismissal was excessive considering the circumstances. Therefore we will reinstate Claimant with seniority, vacation and all rights unimpaired but without back pay.

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 Agreement was violated.

A W A R D

Claim sustained to the extent and in tire manner set forth in Opinion.

By Order
ATTEST: A. W. Paulson
Executive Secretary

NATIONAL RAILROAD ADJUSTMENT BOARD
OF Third Division

Dated at Chicago, Illinois, this 31st day of **July** 1975.