

THIRD DIVISION

Joseph A. Sickles, Referee

Claimant testified that on December 17, he made a suggestion to **Comeau** regarding an alternate method of performing the task, and that **Comeau** gave him an option of how to do the work. Carrier witnesses deny Claimant's version. Moreover, Claimant denies that he told the Assistant Supervisor - on that date - that he would not take orders from **Comeau**. He concedes, however, that on the later date, he expressed that he would not follow the Assistant Foreman's orders.

Even if we were to conclude that the evidence supported only the Claimant's version of the events of December 17, 1973 (and we make no such conclusion in that regard), we would still be faced with the Claimant's admitted statement on a later date. After he was fully advised of the pertinent factors, and after he had a significant period of time to contemplate the consequences of his action; he still persisted in his adamant refusal to follow the orders of properly constituted authority. At that point, Claimant was clearly insubordinate (even without regard to his actions and statements of the previous date), and the Carrier was **justified in** taking action to dismiss him from service.

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. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1976.