

NATIONAL BAILBOADADJUSTMENT **BOARD**

THIRD DIVISION

Award Number **21460**
Docket Number MW-21683

David C. **Randles**, Referee

(Brotherhood of Maintenance of Way **Employees**

PARTIES TO DISPUTE: (

(The Baltimore and Ohio Railroad Company

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

(1) The dismissal of **Trackman** S. L. Perkins was without just and sufficient **cause** (System File **A-3/2-MG-1410**).

(2) Claimant S. L. Perkins be accorded the benefits prescribed in Agreement Rule 48 (e).

OPINION OF BOARD: After an investigation held **on** February 27, 1975, S. L. Perkins, **Trackman**, was dismissed from service for being absent from duty without permission from proper authority from September, 1974, up to and including February 5, 1975.

On April 21, 1975, the General Chairman of the Brotherhood appealed the decision with the request that Mr. Perkins be returned to service with seniority unimpaired. The Carrier reaffirmed its position, and subsequently, the Brotherhood presented its claim to the Board. The Claimant alleges that there was perjured testimony; however, in that this was not contained or appealed on the property, said claim is not properly before this Board. Additionally, **Claimant** alleges that his dismissal was not for just and sufficient cause. The record **on** the property as well as the transcript of the investigation reveal that the Claimant, Mr. Perkins:

- (1) was absent from work without authorization
- (2) returned all his railroad equipment
- (3) made statements to witnesses that he did not intend to work for the railroad
- (4) was employed by two other employers during the period of his absence
- (5) was aware of rule 804 of the **C&O/B&O** Operating Book of Rules which states: "that an **employee** may not be absent without permission from proper authority."

The investigation and the record on the property sustain the dismissal of **Trackman** S.L. Perkins for just and sufficient cause.

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 **Employes** involved in this dispute are respectively Carrier **and** **Employes** 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 18th day of **March 1977**.

