

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21683
Docket Number ~~MW~~-21691

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way **Employes**
(Louisville and Nashville Railroad Compaq

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

(1) The dismissal of Track Repairman W. **H.** Goatley was
unwarranted and **without** just and sufficient cause /System File 1-9 (57)/
D-105891 E-306-91

(2) Track **Repairman** W. **H.** Goatley be reinstated with seniority
and all other rights unimpaired and he be compensated for all wage loss
suffered.

OPINION OF BOARD: This is a discipline dispute in which Claimant was
dismissed from service for allegedly being **insubor-**
dinate, profane and threatening towards his foreman.

In disputes such as this, the Board is limited in its review,
assuming no procedural contentions, to in effect two areas: was there
substantial evidence in support of the Carrier's conclusions, and
secondly, was the discipline assessed appropriate or was it arbitrary
and capricious. We may not, of course, make any findings with respect
to credibility as that prerogative is solely in the hands of the hearing
officer, and must be accepted.

In this case, a review of the transcript of the investigation
indicates that there was substantial evidence to support Carrier's
contentions with respect to Claimant: his actions were far from
acceptable under any standards. The first standard, therefore, has
been met. With respect to the measure of discipline imposed, there is
no indication that it was arbitrary or capricious. This Board has
frequently held that discharge is not inappropriate in cases involving
insubordination or altercations with supervisors. We find no basis for
disturbing the discipline **in** this instance.

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. Paulos*
Executive Secretary

Dated at Chicago; Illinois, this 31st day of August 1977.

