

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 21686
Docket Number **MW-21885**

James F. Searce, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(Port **Terminal** Railroad Association

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

(1) The dismissal of Track Laborer Melvin Johnson on the unproven and disproven charge of

'walking off the job during an emergency'

in purported violation of Carrier's Rule 45 was without justification and an arbitrary abuse of managerial discretion.

(2) Track Laborer Melvin Johnson shall now be allowed the benefits prescribed in Agreement Rule **11(E)**.

OPINION OF BOARD: Claimant, a **trackman**, was dismissed from Carrier's service for "walking off the job during **an** emergency." Claimant had complained of a headache to his **foreman** and sought permission to leave the work site. **The** foreman advised Claimant that permission to leave the work site, prior to completion of the emergency work, **must** be obtained from **the** Roadmaster in charge of the repair work. Claimant shortly thereafter arbitrarily left the work site.

Considering the entire record in this dispute, including Claimant's prior record, we do not find Carrier's **termination** of Claimant's **services** to be arbitrary, capricious or unreasonable. Accordingly, the claim will be denied.

FT.&DINGS: 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 31st day of August 1977.

