

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22020
Docket Number M-22068

James F. **Scearce**, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way **Employes**
(St. Louis-San Francisco Railway **Company**

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

(1) Claimants R. J. Knight and O. **C.** Hums be reimbursed for all wage loss suffered from March 26, 1976 **to June 7, 1976** (System File B-1402-1).

OPINION OF BOARD: The claimants were dismissed **from** the Carrier's service on March 26, 1976, for refusing to perform work as instructed by their foreman **in picking** up rail.

The Petitioner contends that due to rain an unsafe condition existed justifying the refusal to work. We have studied **the** transcript of the investigation conducted on April 15, 1976, and fail to find any evidence, other than allegations of the claimants, to support such contention. The record shows that the other members of the gang continued working.

Agreement was reached between the Petitioner and Carrier that claimants would be returned to work June 7, 1976, without pay for **time** lost but **with** vacation and seniority rights, and with **the** further understanding that such action would not jeopardize the Petitioner's progression of a claim for time lost by both men for the period March 26, 1976 to June 7, 1976.

Based upon the entire record, it is the conclusion of the Board that **the** suspension of claimants from service from March 26, 1976 to June 7, 1976, was justified. The claim for pay for time lost during that period will, therefore, be denied.

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 14th day of April 1978.

