

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22128
Docket Number MW-21999

Herbert L. Marx, Jr., Referee

(Brotherhood of Maintenance of Way **Employes**
PARTIES TO DISPUTE: (
(Terminal Railroad Association of **St. Louis**

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

(1) The r-al from service of Track Laborer Levern Brown on December 23, 1975 and the subsequent asses-t of '**twenty-six** (26) days off **including** Saturdays and Sundays and Holidays' was without just and sufficient cause and on the basis of unproven charges (System File **TRRA** 1976-8).

(2) The charge shall be stricken **from the** claimant's record and he shall be allowed payment for the monetary loss suffered (**Agmt.** Rule 24-d)."

OPINION OF BOARD: Claimant **Levern** Brown was disciplined by suspension of **twenty-six** days following a hearing on a charge of insubordination which resulted from an **encounter** between him and his Supervisor **on** December 23, 1975.

Careful review of the entire record in **this** case convinces **the** Board **that** Claimant has received all the due **process** rights to which he is entitled under the Rules Agreement. The hearing record contains substantial evidence to support the conclusion as reached by **the** Carrier that claimant by his attitude and actions was insubordinate. The discipline as assessed was not unreasonable or capricious.

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;

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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

Claimdenied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A.W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 30th day of **June 1978.**

