

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22218
Docket Number **MW-22271**

Don Hamilton, Referee

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

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

(1) The suspension of **Trackman** Paul R. Anderson from August 11, 1976 to September 15, 1976 was without just and sufficient cause and on the basis of unproven and disproven charges (System File **B-1399/Time** Claims: General: Anderson, Paul R.).

(2) The claimant's record shall be cleared of the charges and he shall be paid for all time lost, all in conformance with Agreement Rule 91(b)(6)."

OPINION OF BOARD: The Claimant was disciplined for being insubordinate and quarrelsome. He was dismissed from the service of the Carrier August 11, 1976. Requested hearing was conducted August 26, 1976. Carrier restored Claimant to service September 15, 1976, alleging that time out of service was sufficient discipline for violation of Rules 175 and 176 in this case.

There is evidence that Claimant was negligent in responding to instructions and continued a verbal exchange with the Foreman when the matter could well have been terminated after the initial confrontation.

The discipline assessed by the Carrier actually amounted to little more than a thirty (30) day suspension. Based on all the circumstances involved in this case, the discipline assessed is not excessive.

The Board, having arrived at this conclusion, need not discuss other matters raised by the parties.

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 **15th** day of November **1978**.

