

NATIONAL RAILROAD **ADJUSTMENT BOARD**

THIRD DIVISION

Award Number 22226
Docket Number MW-22265

Nathan **Lipson**, Referee

PARTIES TO DISPUTE: (Brotherhood of **Maintenance of Way Employees**
(
(The Chesapeake and Ohio **Railway** Company
((Southern Region)

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

(1) The dismissal of **Trackman** Robert L. Jacobs because of
absences from duty on November 22, December 3 and 8, 1976 was without
just and sufficient cause and extremely disproportionate to the offense
with which charged **/System** File **MG-1774/C(So)-D-397/**.

(2) The claimant shall be restored to service with seniority,
vacation and all other rights unimpaired and he shall be paid for all
time lost as a consequence of the aforesaid dismissal."

OPINION OF BOARD: The operative facts in this case are not in dispute.
Claimant was admittedly absent from duty without
permission on the three (3) cited dates. Claimant had previously been
assessed a fifteen (15) day suspension for unauthorized absence. The
stated situation which existed in Award No. 14601 of this Division is
identical to what we find here. There we found that:

"* * * The **gravamen** of the claim rests on the
premise that the discipline assessed is excessive
and too **severe**. There are no allegations of pro-
cedural defects nor any denial of Claimant's guilt."

Given this factual situation and in view of our limited
function as an appellate forum in which we **may not** substitute our
judgment for that of the Carrier where the finding of guilty as
charged is supported by substantial evidence, we **must** conclude in this
instance that there is **no** justification to **overturn** the discipline
as assessed.

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;

Award Number **22226**
Docket Number MW-22265

Page 2

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;

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.

