

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22363  
Docket Number N-22463

William M. Edgett, 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) The dismissal of **Trackman** Frank Parker, Jr. was  
without just or proper cause (System File B-1637).

(2) Claimant Parker shall be returned to service with  
seniority and all other rights unimpaired and with pay for all **time**  
lost in conformance with Agreement **Rule** 91(b)(6)."

OPINION OF BOARD: Claimant threatened his foreman by telling him  
that he was going to **take** a "spike handle and  
whip your        all over the yard." The record of the **investigation**  
**conclusively established** the offense. The threat was made by claimant  
during an attempt by his foreman to get claimant to perform the work  
assigned to him. Carrier assessed discipline for insubordination  
and threats. Its action is fully supported by the record. The  
Board finds no evidence of discriminatory or arbitrary and capricious  
treatment. The claim will 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 **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

Award Number **22363**  
Docket Number **MW-22463**

Page 2

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. Paulus  
Executive Secretary

Dated at Chicago, Illinois, this **30th** day of **March 1979.**

