

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 **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

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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 30th day of March 1979.

