

NATIONAL RAILROAD **ADJUSTMENT BOARD**

THIRD DIVISION

Award Number **22364**
Docket Number **MW-22470**

William M. Edgett, 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 dismissal of **Trackman H. W. McLain** was without just or sufficient cause and on the basis of unfounded charges (System File B-1653).

(2) The charge shall be stricken from the record and the claimant shall be reinstated **to** service and allowed **payment** for the assigned working hours lost, all in conformance with Agreement Rule 91(b)(6)."

OPINION OF BOARD: Claimant took **himself** out of service and based his actions on an account which was not credible. His work record included prior dismissal for absenteeism as well as repeated attempts to get him to improve his work habits.

The Board has no basis upon which to disturb the discipline Carrier assessed. The investigation was conducted as provided by the Rules. Carrier acted upon substantial evidence in the record and certainly was not arbitrary or capricious.

FINDING: 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 apprwed 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. Pauler
Executive Secretary

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

