

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22372  
Docket Number MW-22483

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**  
(Atlanta & Saint **Andrews** Bay Railway **Company**)

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

(1) The **dismissal** of Michael E. **Frazier** was without just and sufficient cause and it was excessively **disproportionate** to the **offense** with which charged (**System File 1-19 (1) (77)/C 5.26A**).

(2) Claimant **mazier** shall be reinstated to service with seniority unimpaired and with pay for **all time** lost."

OPINION OF BOARD: Claimant was charged with **insubordination**. An investigation was held on November 22, 1977 wherein he was found guilty of the specification and subsequently dismissed from service, effective, **December 19, 1977**.

Accordingly, pursuant to our appellate responsibility under the Railway Labor Act, we examined the **investigative** transcript to insure that appropriate due process standards were scrupulously observed.

Since we have not found, after this care-review, any procedural **irregularities** that might impair or call into question the integrity of the administrative proceeding, we will proceed to assess judicially the dispute's merits.

This Board has articulated over a long period of time a consistent body of decisional law methodically distinguishing and defining the contours and acceptable bounds of progressive discipline.

We will high recognize the importance of **employee** rehabilitation in modern labor-management relations and have assiduously focused our efforts to effectuating this policy objective.

But we have in the case before us, an employee, who in a short period of time, has managed to compile a poor employment record.

**The Railroad industry is** vested with a profound public interest that transcends most **employment** relationships. The safe and orderly operations of a rail transportation **system**, demands at an **irreducible** minimum, **disciplined** and obedient employees. **Claimant's insubordinative manifestations** fell short of this requirement and **his** one (1) and one-half ( $\frac{1}{2}$ ) year **service record** did not compensate for it.

Pertinent to our determination and controlling herewith **is** Third **Division** Award 20263 (Referee **Lieberman**), where we held,

"Although we recognize that there are degrees of **insubordination** and **abuse**, we do not concur in Petitioner's argument. Taken alone we may well have found **that** the penalty imposed **was excessive** for the incident involved herein. **However**, it **is** well established that carrier **may** properly consider the employee service record as a whole in determining the measure of discipline. Considering the poor record of **claimant** in the less than four years of service, we do not find any **basis** for the contention that **carrier's** imposition of dismissal **was** an abuse of managerial **discretion**."

We **believe** this principle **is** directly applicable to the fact specifics herein.

**We will thus deny the claim.**

**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.

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**Claim** denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: *AW. Pauls*  
Executive Secretary

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