

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22409  
Docket Number NW-22434

Robert A. Franden, Referee

**PARTIES TO DISPUTE:** (Brotherhood of Maintenance of Way **Employees**  
(Terminal **Railroad** Association of **St. Louis**)

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

(1) The removal from service on September 14, 1977 and the subsequent dismissal on October 10, 1977 of Track Foreman Leonard Allen was

- (a) without just or sufficient cause;
- (b) **on** the basis of unproven and disproven charges;
- (c) extremely disproportionate to the offense with which charged

and, as a consequence thereof

(2) the Claimant shall be reinstated to service with all rights unimpaired and with pay for all time lost (System File **TRRA 1977-30**)."

**OPINION OF BOARD:** Pursuant to an investigation properly held the Claimant was dismissed from the service of the Carrier for refusing to follow instructions. The Claimant takes the position that sufficient evidence was not presented at the hearing to support the charges. 1

We **have** reviewed the testimony of the witnesses as reflected in the transcript of the investigation and find that sufficient evidence of probative value was presented at the hearing to support the charge. Given the seriousness of the charge and **the** Claimant's past discipline record we find the penalty of dismissal to be appropriate. 3

**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.

**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 May 1979.

