

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Award Number 22448  
Docket Number NW-22369**

**William M. Edgett, Referee**

**PARTIES TO DISPUTE:** { **Brotherhood of Maintenance of Way Employees**  
{ **Louisville & Nashville Railroad Company**

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

(1) The disqualification of Franklin Miller as Track Foreman (Rank 1) and the divestiture of his seniority and seniority rights as an Assistant Track Foreman (Rank 2) was without just and sufficient cause and was arbitrarily and capriciously imposed (System File 1-16 (47)/D-106546; E-306-12).

(2) As a consequence of the above, Claimant Miller shall

(a) have his seniority as an Assistant Track Foreman (Rank 2) restored unimpaired;

(b) be allowed to qualify as a Track Foreman (Rank 1) on the Birmingham Division, South End Seniority District;

(c) be paid the difference in the Assistant Foreman's rate of pay and the rate of pay at which he has been compensated for all services he rendered since July 16, 1976."

**OPINION OF BOARD:** Claimant was disciplined by loss of his rank as Assistant Foreman after Carrier found that he had failed to carry out his responsibility for the safety of his crew. The Board finds that Carrier did not abuse its discretion in taking that action and will, accordingly, deny the claim.

However, based upon the entire record the Board recommends that Claimant be allowed to qualify as Assistant Foreman and Foreman if his record warrants it.

**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 13th day of July 1979.