

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **22454**
Docket Number **w-22472**

Paul C. Carter, Referee

PAKCIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**
(Seaboard Coast Line Railroad Company

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

(1) The dismissal of **Trackman M. Pelham** was without just and sufficient cause and on the basis of unproven charges **/System File 12-39(77-21)J/C-4(13)-MP/**.

(2) **Trackman M. Pelham** be returned to service with seniority and all other rights unimpaired, the charges leveled **against** him be stricken from his record and he be **reimbursed** for all wage loss suffered."

OPINION OF BOARD: **Claimant**, prior to his dismissal, was **employed** as a track laborer and assigned to Section Force 6511. He was **removed** from **service** on **May 19, 1977**, on the **basis** that while working on **May 18, 1977**, he was **insubordinate** to his **foreman** and **threatened** to strike him. A formal investigation was conducted on **May 31, 1977**, to determine **the** facts surrounding **the** incident on **May 18**. **Claimant** was present at the investigation and represented by officers of the petitioning organization.

The Board has carefully reviewed the entire record, including **the** transcript of the investigation conducted on **May 31, 1977**. We **find that** none of claimant's substantive procedural rights was violated. There was substantial **evidence** presented at **the investigation** to support the charge. The foreman was in charge of **the** gang and was responsible for the work performed by the gang. **The claimant** was obligated to comply with **the** instructions of his **foreman** and then complain through the grievance procedure if he thought he was being mistreated.

The Board finds no proper basis for disturbing the action of **the** Carrier, and 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 Employee 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. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1979.

