

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22505
Docket Number CL-22427

George S. Roukis, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees

PARTIES TO DISPUTE: (

(Norfolk and Western Railway

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8578) that:

1. Carrier violated the provisions of the April 1, 1973 Master Agreement in general, **Rules** 27 and 42 **in** particular, when on September 9, 1977 they arbitrarily and capriciously dismissed Mr. **R. L. Brown**.

2. Carrier's action was unjust, unreasonable and an abuse of Carrier's discretion.

3. Carrier shall reinstate **Mr. Brown**, **with** seniority and all other rights **and** privileges **unimpaired and** pay him for all Lost **time**.

OPINION OF BOARD: The fact **situation** in this case is **not** in dispute. In fact, **claimant** readily admits that he released the train in question from the siding in question contrary to the specific instructions which he **had** received from **the Terminal Train-master**. Therefore, the only issue for us to decide in this case concerns the severity of the discipline which was **imposed**.

The record reveals that **claimant** was previously dismissed from Carrier's service in 1975 for permitting a yard crew to pass a Stop and Stay signal without proper authority. This Board, in **Award** No. 21512, considered "claimant's many years of service" and reinstated him to service in April, 1977 with the hope that he would correct his improper work practices. **Less than one** (1) month following his reinstatement to service, he admittedly disregarded his supervisor's instructions **and** permitted an improper train movement to occur.

On the basis of the total record in this case, we cannot say that Carrier's action was arbitrary or capricious. The claim for **reinstatement** must be and is 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 **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. Parker
Executive Secretary

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

