

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22628
Docket Number MW-22370

James F. Searce, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(St. Louis-San Francisco Railway Company

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

Trackman Eddie Lee Walker shall be paid for all time lost from the date of his dismissal on November 16, 1976 until the date he was returned to service on or about April 18, 1977 (System File B-1542)."

OPINION OF BOARD: The claimant, a trackman with nearly three years of service, was dismissed November 16, 1976, for being accident prone and an unsafe employee. The claimant was reinstated April 18, 1977. From the outset we must note that cases of this nature are most difficult and should be each considered on their individual merit.

We have carefully examined the record while keeping in mind the well-established precedent that the Board will not substitute its judgment for that of the Carrier unless it can be shown the discipline was arbitrary and capricious. It is our conclusion that there is substantial evidence to support the charge, and it cannot be said the discipline was arbitrary.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties received 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

Award Number 22628
Docket Number MW-22370

Page 2

That the Agreement **was** not violated.

A W A R D

claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at **Chicago, Illinois**, this **9th** day of **November** 1979.

