

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22696  
Docket Number MN-22772

Paul C. Carter, Referee

PARTIES TO DISPUTE: ( (Brotherhood of Maintenance of Way **Employes**  
(Joint Texas Division of **CRI&P-FW&D** Railway Companies

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

(1) The discipline of dismissal assessed **Trackman L. C.**  
Douglas was arbitrary and without **just** or sufficient cause.  
/System File B-11-77/JT G-90 (MW)\_/

(2) Claimant **L. C. Douglas** be reinstated to service **with**  
all seniority and benefits unimpaired and he be compensated for all  
wage loss suffered, including holiday pay, in accordance with **Rule 26**  
of the Agreement."

OPINION OF BOARD: Claimant was a laborer in Carrier's Extra Gang  
No. 1. Be was removed from the service by the  
**Roadmaster** on October 19, 1977; for alleged insubordination and the  
use of profane language to the **Roadmaster**.

On October 21, 1977, claimant was notified to attend in-  
vestigation on October 26:

" . . . .for the purpose of ascertaining the facts and  
determining your responsibility, if any, in connection  
with your alleged insubordination and use of abusive  
language to Mr. T. O. Little, **Roadmaster**, near Flynn,  
Texas, about **1:00** P.M., Wednesday, October 19, 1977,  
during your tour of duty as **trackman** on **Extra** Gang  
No. 1 (tie gang)."

The investigation was postponed and held on November 4, 1977,  
and claimant was notified on November 9, 1977, of his dismissal from  
the service.

A copy of the transcript of the investigation conducted on  
November 4, 1977, **has** been made part of the **record**. A review of the  
record shows that **none** of claimant's substantive procedural rights  
was violated. There was substantial evidence in the investigation to  
support Carrier's action in dismissing claimant from service. There  
is no proper basis for the Board to interfere with the action taken.

As we have decided the case **on** its merits, there is no necessity to pass upon the procedural issue raised.

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 Employes involved in this dispute are **respectively Carrier** and **Employes** 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:

  
Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1980.

