

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22743

Docket Number MN-22791

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**  
(New Orleans Public Belt Railroad

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

(1) The dismissal of **Trackman** John Ruffin was without just or sufficient cause and was extremely disproportionate to the offense with which charged (Carrier's File 013.7).

(2) **Trackman John** Ruffin be reinstated with seniority, vacation, all other rights and insurance coverage unimpaired and he be compensated for all wage loss suffered beginning February 25, 1978,"

OPINION OF BOARD: Claimant, a **trackman**, was advised by the Carrier on February 27, 1978, that he was dismissed from service, effective 9:30 A.M., February 25, 1978, by the Foreman under whom he worked, as a result of poor work performance and insubordination to the **Foreman**.

Claimant requested a hearing under the provisions of the applicable Agreement. The hearing was held on March 17, 1978, at which **claimant** was present and represented by an officer of the Organization. Following the hearing, claimant was notified on April 6, 1978, that his dismissal was sustained. A copy of the transcript of the hearing has been **made** a part of the record.

The Board has carefully reviewed the entire record, including the transcript of the hearing conducted on March 17, 1978, and the submissions of the parties. We find that none of **claimant's** substantive procedural rights was violated. There was substantial evidence adduced at the hearing to support the Carrier's action. The record also shows that claimant had been dismissed from the service on **two** prior occasions for similar misconduct, and reinstated on a leniency basis in each instance. It is apparent that the prior discipline did not have the desired effect.

The Carrier's actions in dismissing claimant were not arbitrary, capricious or unreasonable. 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 **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 war 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 29th day of **February** 1980.

