

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 22816

Docket Number **MW-22868**

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**
(Southern Pacific Transportation Company
(Texas and Louisiana Lines

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

(1) The dismissal of Laborer E. Glasco was without just **and** sufficient **cause** and was wholly disproportionate to the offense with which charged (System File **MW-78-95**).

(2) Laborer E. Glasco shall be afforded the remedy prescribed in Article 14(f)."

OPINION OF BOARD: Claimant was employed as a laborer and had been in Carrier's service about nine months.

On April 13, 1978, claimant was dismissed from service by the Division Engineer for being absent from his position without authority on April 10, 11 and 12, 1978. On April 25, 1978, claimant requested a hearing, which was scheduled to be held at 9:00 A.M., May 9, 1978. Claimant was not present at the scheduled **time** of 9:00 A.M., **and** the hearing was delayed until **9:40** A.M., at which time it was **commenced**, with the understanding that claimant would be permitted to testify if he had a **legitimate** reason for not being present at 9:00 A.M. Claimant did not appear at the hearing.

On May 15, 1978, claimant was notified that the discipline previously assessed **would** stand. The General Chairman later advised the Carrier on July 17, 1978, that claimant had contacted the Organization on May 15, 1978, and stated that on May 9, 1978, he was on his way to the hearing, had car trouble, and was unable to be present.

There was substantial evidence adduced at the hearing in support of claimant's dismissal. It **would** seem logical that if claimant was actually interested in his job, he would have contacted the Carrier or the Organization on May 9, 1978 if he was unable to attend the hearing on that date because of car trouble.

There is no proper basis for this Board to interfere with the discipline imposed.

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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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 18th day of April 1980.

