

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 22937
Docket Number **MW-22984**

Rodney E. Dennis, Referee

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

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

(1) The dismissal of **Trackman** T. V. Gould was without just **and** sufficient cause and was arbitrarily imposed (System File B-1721).

(2) **Trackman** T. V. Gould shall be afforded the **remedy** prescribed in **Article** 11 Rule **91(6)**."

OPINION OF BOARD: **Trackman** T. V. Gould, claimant in this case, was dismissed from service for failure to report to work at the **conclusion** of a disciplinary suspension **on** May 16, 1978, for use of profane language **to** a **supervisor**, and for **insubordination**. A hearing into the matter **was** held on **June** 26, 1978. As a result of that **hearing**, Carrier concluded that **claimant** had violated three Carrier rules: **Rule** 189, **Rule** 175, and Rule 176.

Rule 189 states that **employees must** not absent themselves from their duties without proper **authority**. Rule 175 states that profane or vulgar **language** is forbidden. Rule 176 states that employees who are insubordinate, quarrelsome, or insolent will not be retained in service.

The stenographic notes of the June 26, 1978, hearing have been made a part of the record of this case. A review of those notes reveals that claimant was **not** denied any of his substantive procedural rights, that he was afforded a full and fair hearing, and that he was given every opportunity by the hearing officer to examine and cross-examine witnesses **and** to make statements on his own behalf. At one point in the record, claimant contended that he had been dismissed by Carrier because he thought that he was being discriminated against because of his religion (Catholic) and his relatives.

This Board has carefully examined the record of this case and cannot discover any facts to support such an allegation. We see no indication that claimant's religion or his relatives in any way **have** been an element in this case. Such a claim by claimant is unsubstantiated and has no merit.

The facts of this case are basic. The record reveals that claimant knew when he was required to report to work. He knew that his suspension was over on May 16, 1978. **He** had a letter to that effect **and** the Railroad Retirement Board notified him about the end of **his suspension**. Be did not report to work until May 25, 1978. This is a violation of Rule 189. It is also a fact **that** claimant used **foul** and vulgar language to the **Roadmaster**. This is a violation of Rules 175 and 176. Shoptalk is one **thing**, but a foul statement to a supervisor in front of other **employees** is another. Despite disagreements between employees and supervisors, there is no excuse for one man to call another a foul **name**.

This Board has carefully reviewed the record of this case. It can see no reason why the actions of Carrier should not be upheld. Claimant did violate the rules as charged. lie has a very poor work record. Be is an **argumentative** and difficult **employee**. Carrier is **not** required to keep such an **employee in** its service.

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. Paulsen*
Executive Secretary

Dated at Chicago, Illinois, this 15th day of August 1980.