

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22956  
Docket Number MW-23024

Joseph A. Sickles, Referee

**PARTIES TO DISPUTE:** (Brotherhood of Maintenance of Way **Employees**  
(St. **Louis** Southwestern Railway Company)

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

(1) The suspension of five (5) days imposed upon Laborer Eugene **Lemons** was unjust, unreasonable and unwarranted (System File **MW-78-18-CB**).

(2) Laborer **Eugene Lemons** shall be compensated for all wage loss suffered including overtime pay."

**OPINION OF BOARD:** The Claimant was suspended from service for five (5) days because of an alleged insubordination toward his Foreman.

The record shows that on the night of July 17, 1978, the Claimant - who had been called out to work with an extra gang at a derailment site - took it upon himself to load **certain** switch points on a gang truck and he backed the truck over Track No. 21. This was done without instruction from his Foreman or without seeing that there was proper flagging protection against possible train movement.

When the Claimant's Foreman told the Claimant to stop his activity, the Claimant chose to dispute the point.

Later in the evening, there was an additional incident concerning a nut lock on a bolt.

We have **reviewed** the record in this docket, and we find nothing which compels us to disturb the Carrier's findings of guilt, nor can we say that the discipline imposed was unreasonable under the circumstances.

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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:

  
Executive Secretary

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