

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIW DIVISION

Award Number 22962
Docket Number **MW-23102**

Paul C. Carter, 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** M. G. Gilley for alleged violation of **Rule** 176 was without just and sufficient cause and wholly disproportionate to the offense with which charged (System File B-1821).

(2) **Trackman** M. G. Gilley shall **now** be afforded the remedy prescribed in Article 11, **Rule** 91(b)(6)."

OPINION OF BOARD: Claimant had been in Carrier's service about two months as **trackman**, and at the time of the occurrence giving rise to the **dispute** herein, was assigned to Tie Gang T-2-11, **and** was working under the direction of **Assistant** Foreman, Steve **Gunn**. On August 17, 1978, while working in Lindenwood Yard (St. **Louis**, Missouri) claimant was dismissed from service for insubordination to Assistant Foreman **Gunn**.

At the request of the Organization, a **formal** investigation was conducted on September 11, 1978. Following the investigation, claimant's dismissal was affirmed on September 20, 1978.

Rule 176 of Carrier's **Rules** for Maintenance of Way and Structures, reads in part:

"**Employees** who are negligent or indifferent to duty, insubordinate**quarrelsome**, insolent or otherwise vicious. . .**will** not be retained in the service." "

Without detailing the evidence adduced at the investigation on September 11, 1978, suffice it to say that the Board **finds** substantial evidence to support claimant's dismissal. Considering claimant's short period of service, the discipline imposed was not excessive.

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 deaied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third **Division**

ATTEST: _____

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 28th day of August **1980**.

