

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **23238**  
Docket Number **MW-23441**

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**  
- (The Chesapeake and Ohio **Railway Company**  
(**Southern** Region)

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

(1) The dismissal of **Trackman** Edward L. **McQueen** for alleged use of intoxicants and for alleged violation of **Rule 11** was without just and sufficient cause and wholly disproportionate to the charges leveled against him (System File C-D-789/K+-2561).

(2) **Trackman** Edward L. **McQueen** shall be afforded the remedy prescribed in **Rule 21(e)**."

OPINION OF BOARD: Following an investigation conducted on **May 11, 1979**, claimant was notified of his dismissal from service on **May 31, 1979** for being at fault in the use of intoxicants on **April 27, 1979**, and violating **Rule 11** of the Engineering Department Maintenance **Rules** on the **same** date.

**Rule 11** of the Engineering Department Maintenance **Rules**, referred to in the notice of dismissal, reads:

"11. No **employee** will absent himself from duty, nor engage a substitute to perform his duties without **permission** from the proper authority. Employee **must** report for duty at the designated **time** and place."

A copy of the transcript of the investigation **conducted** on **May 11, 1979** has been **made** a **part** of the record. A review of the transcript shows that none of **claimant's** substantive procedural rights was violated. Without detailing it, suffice it to say that substantial evidence was adduced at the investigation to support the discipline imposed. 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 **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. Paulson*  
Executive Secretary

Dated at Chicago, **Illinois**, this **31st** day of March **1981**.

