

RATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23290  
Docket Number MS-23442

Paul C. Carter, Referee

**PARTIES TO DISPUTE:** (Jerry L. Anglin  
(Consolidated Rail Corporation

**STATEMENT OF CLAIM:** 'Was Mr. Jerry L. Anglin's termination of employment with Consolidated Rail Corporation warranted, and was such **punishment** as termination excessive for the act involved, and was such an **action** supported by the evidence presented?"

**OPINION OF BOARD:** It **is** clear from the record that the claim before the Board has not been **handled** in the **usual manner** in appeal to Carrier's highest designated officer of appeals as required by Section 3, **First** (i) of the Railway **Labor** Act, which **is** a prerequisite to this Board assuming **jurisdiction**. The claim **is** not properly before the Board and **must** be dismissed.

If the claim were properly before the Board, it would be denied on its merits. The record shows that claimant was taken out of service about **9:30 A.M.**, **March** 22, 1979, pending an investigation for insubordination and violation of **Rule E** of the **Rules for Conducting Transportation**. On the **same** date claimant was notified by Carrier to attend a hearing on March 23, 1979:

"... to **determine** the facts and ascertain your responsibility, if **any**, in connection with your alleged violation of Rule E of the **Rules** for Conducting Transportation, wherein **on Thursday, March** 22, 1979, at **9:30 AM**, you refused to **follow** a direct order given by your foreman to work with a **gang**."

**Rule E** reads in part as follows:

"**Employees must** devote themselves **exclusively** to the Company's **service** while on duty, render every assistance in their power to carrying out the rules and special instructions **and** promptly report to the proper official any violation **thereof**."

"To **remain** in the service, **employees must** refrain from conduct which adversely affects the **performance** of their duties, other **employees**, or the public. They **must** refrain, whether on duty or off duty, or on or off company property from conduct which brings discredit upon the company."

The **claimant** was afforded a fair **and** impartial hearing. There was substantial evidence adduced at the investigation, or hearing, in support of the charge **against** him. The discipline imposed by the Carrier **was not** arbitrary, capricious or in bad **faith**.

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 claim **be** dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Paulson  
Executive Secretary

Dated at Chicago, Illinois, **this 15th** day of May 1981.