

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23349
Docket Number MW-23377

Paul C. Carter, Referee

PARTIES TO DEPUTE: { Brotherhood of Maintenance of Way **Employees**
(Chicago, Milwaukee, St. Paul **and Pacific Railroad Company**

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

(1) The dismissal of **Trackman Andrew Liddell** was without just **and** sufficient cause and wholly **disproportionate** to the offense with which charged (System File C #61/D-2298-1).

(2) **Trackman Andrew Liddell** shall be returned to **service** with seniority and all other rights **unimpaired.**"

OPINION OF BOARD: Claimant **had** been in **Carrier's** service as **trackman** about ten years. On March 19, 1979, he was dismissed from the service for **carrying** a gun **while** on duty and on **Company** property on March 16, 1979.

The **claimant** requested a hearing in **accordance** with the **provisions** of the applicable Agreement. The hearing was conducted on **March 28, 1979**, following which the dispute was handled in the usual **manner** on the property, and, failing of settlement, was referred to this **Board.**

A copy of the transcript of the hearing conducted on March 28, 1979, has been **made** a part of the record. We have **carefully reviewed the transcript** of the **hearing** and find that none of claimant's substantive procedural rights was violated. Claimant was present throughout the hearing and was **represented.** The hearing was conducted **in a fair and impartial manner.**

Rules 700 and 708 of Carrier's Operating Rules for **Employees** in The Maintenance of Way and Structures and the **Signal and Communication Department** read :

Rule 700: "**Employees** will not be retained in **the service** who are careless of the safety of themselves or others, disloyal, insubordinate, dishonest, **immoral**, quarrelsome or otherwise vicious, or who do not conduct themselves in such a manner **that** the railroad will not be subjected to criticism and loss of good will, or who do not meet their personal **obligations.**"

Rule 708: "**Employees are prohibited from having loaded or unloaded firearms in their possession while on duty except those employees authorized to do so in the performance of their duties or those given special permission by the Superintendent.**"

In the hearing conducted on March 28, 1979, there was substantial evidence that claimant did have a firearm in his possession while on duty on March 16, 1979. Four **employees** so testified. Claimant did not come within the exceptions set out in Rule 708.

This Board has issued a number of awards **upholding** the dismissal of employees for being in the possession of **firearms** while on Company premises. See Third Division Awards 20199 and **20675**; Second Division Awards 6938 and **7792**. There **is** no proper basis for the Board to interfere with the discipline imposed by the Carrier in our present case.

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 14th day of August 1981.