

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23362  
Docket Number **MW-23333**

Josef P. **Sirefman**, Referee

**PARTIES TO DISPUTE:** ( (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 **Machine** Operator **Michael** R. Campbell for alleged **violation** of **Rule** 700 was without just and sufficient cause **/System File C#127/D-2232-17.**

(2) Machine Operator Michael R. Campbell shall be reinstated with all seniority rights unimpaired and he shall be compensated for all wage loss suffered."

**OPINION OF BOARD:** Claimant Michael R. Campbell was hired by the Carrier on May 30, 1978. On September 13, 1978, while working as a **Machine** Operator, he was dismissed by **his** Supervisor for insubordination in stopping work without permission and calling his Supervisor "**a few names**".

A hearing was held on September 27, 1978. An examination of the record before the Board establishes that Claimant failed to indicate to his Foreman that he had a medical problem and wanted to leave work because of it, **and** that he used inappropriate language towards his Supervisor. There was **substantial** evidence to sustain the Carrier's decision to discipline Claimant.

The penalty of dismissal is, however, too severe. This was recognized by the Carrier when, on September 29, two days after the hearing, it acted promptly in offering **Claimant** "reinstatement effective at once on a leniency basis without pay for time lost"; the loss of twelve days pay being **considered sufficient** for corrective impact on Claimant, an **employee** of a few months duration. This offer was consistently **made** by the Carrier in subsequent **grievance** steps **and** apparently rejected more than once by the Claimant. Accordingly it is our determination and we so order that Claimant be restored to **service** without pay for the time **he** has been out of service.

**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 Employee 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 discipline was excessive.

A W A R D

**Claim** sustained in accordance with the **Opinion**.

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

ATTEST:

*A. W. Paulson*  
Executive **Secretary**

Dated at Chicago, Illinois, this 14th day of August 1981.

