

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23965
Docket Number MW-24081

Ida Klaus, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Western Maryland Railway Company

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

(1) The ten (10) days' actual suspension and thirty (30) days' overhead suspension imposed upon B&B Mechanic Daniel M Mangum for alleged 'insubordination and physical assault against his Acting Foreman, Mr. E. E. Williams, on Friday, December 21, 1979' was without just and sufficient cause and on the basis of unproven charges (System File 8-MG-2696).

(2) The claimant's personal record be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: The Claimant was given a ten (10) day actual suspension and au overhead suspension of thirty (30) days for insubordination and physical assault against his acting foreman.

The Organization contends that the discipline was imposed without just and sufficient cause and on the basis of unproven charges.

The sole issue in the investigation held on the property was one of the credibility of the Claimant and the acting foreman. The Carrier resolved the complaint in favor of the acting foreman. That resolution is binding on the Board.

As the weight of the evidence accepted by the Carrier clearly supports the ultimate conclusion it reached on the charge, the Carrier's determination must stand. The Board also concludes that the penalty imposed was reasonable.

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

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That the **Agreement** was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of August 1982.

