

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23971
Docket Number MW-23828

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: { **Brotherhood** of Maintenance of Way Employes
{ **Southern** Pacific Transportation Company (T&L Lines)

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

(1) The dismissal of **Laborer** A. W. Page for alleged violation of Rules 801 and 802 was without just and sufficient cause and exceedingly harsh (System File **MW-80-17/272-8-A**).

(2) Laborer A. W. Page shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant A. W. Page, a Laborer, **was** dismissed by his Yard Foreman on October 25, 1979 for insubordination in refusing to carry out a direct order. A hearing was held on November 30, 1979 and the Carrier sustained the dismissal on December 3, 1979.

A review of the record, namely the testimony of the **Yard Foreman, Leadman, and that of** Claimant establishes **that there was substantial** evidence to sustain the **Carrier's** decision to discipline Claimant for the October 25th incident. In view of Claimant's poor record during a short period of service the penalty of dismissal is reasonable.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

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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 27th day of August 1982.

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