

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **24154**
Docket Number **MW-24147**

Herbert L. Marx, Jr., Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**
(The Chesapeake and Ohio Railway Company
(Southern Region (and Hocking Division)

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

(1) The suspension of thirty (30) days imposed upon **Track Foreman T. J. DeRossett, Jr.** and the **disciplinary** demotion to **trackman** and/or disqualification as track foreman imposed upon him for alleged **insubordination** was arbitrary, capricious, without just and sufficient cause and on the basis of unproven **charges** (System File **C-D-944/MG-2786**).

(2) Mr. T. J. **DeRossett, Jr.'s** seniority as track foreman and assistant foreman be restored and unimpaired, his record be cleared of the **charge** leveled against **him and he** shall be compensated for all wage loss suffered including the difference between what he would have received at the track **foreman's** rate and **what** He was paid at the **trackman's** rate and overtime **pay until he is returned to work as a track foreman** with seniority as such **unimpaired.**"

OPINION OF BOARD: **Claimant T. J. De Rossett, Jr.,** Track Foreman, was **suspended for a period of 30 days and also was** disqualified as a track **foreman** due to **Carrier** having found him guilty of insubordination when he refused to follow his **supervisor's** instructions. There is substantial evidence in the investigative hearing record to support this charge.

Claimant engaged in a serious act. **Insubordination** is a pernicious thing. It cannot be tolerated especially within the class of employs charged with first-line supervisory **authority.** Under the **circumstances** the Board is unable to find that the actions of Carrier constituted either an abuse of its discretion or excessive discipline.

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: Acting Executive Secretary
National Railroad Adjustment Board

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

Dated at **Chicago**, Illinois, this 15th day of **February** 1983.

