

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24215
Docket Number MW-24287

Robert W. McAllister, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
{ Southern Pacific Transportation Company
{ (Texas and Louisiana Lines)

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

(1) The dismissal of Track Laborer R. E. Joubert for alleged violation of 'Rule 802 and Rule 801' was without just and sufficient cause and on the basis of unproven charges (System File MW-80-154).

(2) The claimant shall now be accorded the benefits prescribed in Article 14(f) of the Agreement."

OPINION OF BOARD: The Claimant, R. E. Joubert, is a track laborer at the Carrier's Lafayette Division with service since 1978. By reason of actions occurring on August 22, 1980, the Carrier dismissed Claimant from the service charging him with violation of Rules 801 and 802. The morning of August 22, Claimant was assigned to replace ties working under an Assistant Foreman on Gang 129 headquartered at Lake Charles, Louisiana. According to the Carrier, Claimant was insubordinate to his foreman and did not perform his duties as instructed.

The Organization asserts Claimant's dismissal was without just and sufficient cause in that the Carrier did not prove the charges upon which it based its action. This Board cannot agree with that view of the evidence. The transcript clearly establishes Claimant was instructed several times how to properly install cross ties, but did not do so. He was told to stop talking and to stop interfering with the other laborers. The Claimant persisted in arguing with the Assistant Foreman who cautioned him that should he continue, he would be sent to the District Manager. The Claimant continued his arguing, and the District Manager removed him out of service.

This Board has consistently held that employes must follow orders. The responsibility of directing operations is the Carrier's. This necessitates communication with employes by such means as directions, instructions, advice, orders, etc. Compliance is not discretionary. Considering all the circumstances, the Carrier cannot be said to have acted unreasonably when it dismissed the Claimant.

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 Employee 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

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 14th day of March 1983.

