

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24551
Docket Number MW-24861

Paul C. Carter, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way **Employes**
(Consolidated Rail Corporation
((former Lehigh Valley Railroad Company)

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

(1) The dismissal of **Trackman** K. Bristol for alleged insubordination on August 21, 1980 was **without** just and sufficient cause (System **Docket** 649).

(2) The claimant shall be reinstated with seniority and **all** other rights unimpaired. his record cleared and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant was employed by the Carrier as a **trackman**, and had **about** two and one-half years of service. He was instructed to attend a hearing and **investigation** on August 28, 1981, on the charge:

"Alleged insubordination in that you refused a direct order to go to work on Company bus, and alleged violation of insubordination in that you used abusive language to your Assistant Supervisors, R. Rogers, **Sr.** and T. **Mingolla**, on August 21, 1980, at approximately **7:05** AM at South Plainfield, **NJ.**"

The investigation was conducted as scheduled, and a copy of the transcript has been made a part of the record. A review of the transcript shows that the hearing or investigation was conducted in a fair and impartial manner. None of claimant's substantive procedural rights was violated.

There was substantial evidence in the investigation in support of the charge against the claimant. Discipline was warranted. However, based on the entire record, the Board is of the considered opinion #at the time that claimant has been out of service **should** constitute sufficient discipline for the offense. We will award that claimant be restored to the service with seniority and other rights unimpaired, but without any compensation for time lost while out of the service. Claimant should clearly understand, however. that the purpose of this Award is to give him one last chance to become and remain a competent and responsible **employee**, and that further major infractions by him may **result** in permanent termination of his services. He should also understand that it is expected that his attitude toward supervision will improve.

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 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:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 4th day of November, 1983

