

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24686  
Docket Number UW-24815

Eckehard Muessig, Referee

PARTIES TO DISPUTE: ( Brotherhood of Maintenance of Way **Employes**  
( The Chesapeake and Ohio Railway Company

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

(1) The dismissal of **Trackman** John **Salyer** for alleged insubordination and for being "**quarrelsome** to Assistant Supervisor of **Track**" on May 7, 1981 was excessive and wholly disproportionate to the offense with which charged (System File C-D-1161/K-3162).

(2) The Claimant shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: This dispute centers on events which took place on May 7, 1981, at approximately 9.30 a.m. At that time, the Claimant, a Trackman, reported **for** duty at this **work** site. **His** assigned hours were 7:30 a.m. to 4:00 p.m. The Supervisor refused the Claimant's request to **work** that day because he had warned him the previous day, May 6, that he would not be permitted to work the next time he reported late. The May 6 discussion was a continuation of earlier repeated warnings concerning tardiness. Following the Carrier's refusal of the Claimant's request to work that day, the Carrier contends that he directed obscene **language and** gestures **toward** his Supervisor. The Claimant **therefore** was charged with being insubordinate.

After **an** investigative hearing, the Claimant was dismissed from Carrier's service .

The Claimant's testimony and the remainder of the record before us supports the Carrier's decision. **Having** so found, and in recognition of the **Claimant's** previous disciplinary record and short tenure, the Board has no basis to disturb the penalty assessed.

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

The Agreement was not violated.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at' Chicago, Illinois this 24th day of February, 1984

