

NATIONAL. RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24796
Docket Number MW-24847

Eckehard Muessig, Referee

PARTIES TO DISPUTE: { (Brotherhood of Maintenance of Way **Employees**
(Maine Central Railroad Company

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

(1) The dismissal of **Trackman** W. Swett for alleged 'conduct unbecoming a Maine Central Railroad employee' was without just and sufficient cause and on the basis of unproven charges.

(2) **Trackman** W. Swett shall now be allowed the benefits prescribed in Agreement Rule 22(c). "

OPINION OF BOARD: The Claimant, who had been employed on a seasonal basis as a **Trackman**, was found guilty in Civil Court on two counts of criminal threatening, and was sentenced to six months in jail.

Thereafter, as a result of a hearing held on February 6, 1981, the Carrier found him guilty of the charge of conduct unbecoming an **employee**, and he was discharged from the service.

The Carrier raises a procedural objection, based on the time limit rule, concerning the movement of this case for **review** by the Board. With respect to the time limit contentions of the parties, the Board essentially adopts the Organization's argument and rationale on this point. Accordingly, the merits of the **issue** presented are properly before the Board for decision.

Concerning the merits, there is sufficient evidence to support the charge. The Carrier has a legitimate right to insist upon behavior that does not adversely affect the employer-employee relationship. In the instant case, the Carrier has found that the incident leading to this dispute and the resultant ruling of the Court severely impacted upon this relationship. **Accordingly**, there is no proper basis to overrule the decision by the Carrier.

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;

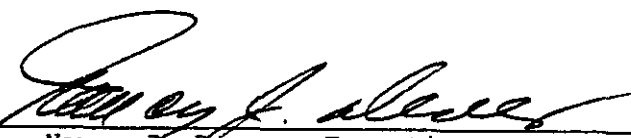
That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1984

