

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25239
Docket Number MW-25304

Eckehard Muessig, Referee

(Brotherhood of Maintenance of Way **Employees**
PARTIES TO DISPUTE: (
(Southern Pacific Transportation Company
Eastern Lines

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

(1) The dismissal of Machine Operator W. **Landrio**, Jr. for alleged violation of "Rule 801", "Rule 802" and "Rule M247" was without just and **sufficient** cause, on the basis of unproven charges and in violation of the Agreement (System File MW-82-155/355-53-A).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his record cleared of the charges leveled against him and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: The Claimant, a Machine Operator with slightly less than four years of service, was dismissed from the service for insubordination and use of profane language to his Foreman.

The Carrier found, after investigation, that the Claimant, while working alone with his Foreman, refused to drive a dump truck to the Shop after being directed to do so, and that he used profane language during the refusal incident.

This Board has held on numerous occasions that insubordination is a serious offense which may lead to dismissal. While we are not unmindful of the Organization's contentions, we find on the record that the discipline imposed was commensurate with the offense. In this respect, we would also note the Claimant's relatively limited seniority and his record which included two previous dismissals. Under these circumstances. we must deny the claim.

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.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1985.