

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25277
Docket Number MW-24803

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Colorado and Southern Railway Company

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

(1) The ten (10) days of suspension imposed upon Trackman M. L. Peterman for alleged violation of Rules "661 and 667" was without just and sufficient cause and on the basis of unproven charges (System File C-23-81/MW-444).

(2) The claimant's record shall be cleared and he shall be compensated for all wage loss suffered, including overtime pay.

OPINION OF BOARD: While working a crossing at Berthoud, Colorado, Claimant M. L. Peterman, a Section Laborer, was directed by his Foreman to help pick up a railroad tie to place under the track. Carrier contends that Claimant refused this order. Claimant was subsequently charged with a violation of Safety Rules 661 and 667 for his insubordinate behavior. He was assessed a ten (10) day penalty. This Board has reviewed the hearing record in this case and must conclude that Claimant was insubordinate in that he did refuse to follow the Foreman's order. For this infraction, a ten (10) day suspension is not arbitrary or capricious. This Board shall therefore deny this 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 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

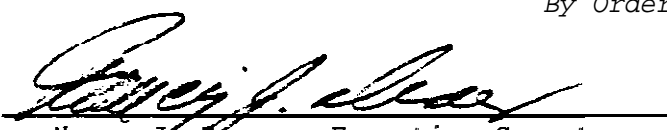
That the Agreement was not violated.

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 28th day of February 1985.