

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25278

Docket Number MW-24809

Rodney E. Dennis, Referee

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

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

(1) The twenty-five (25) demerits imposed upon **Trackman** A. McNeil for allegedly "leaving work site on Raritan Branch at approximately **2:10** P.M. on June 23, 1980 without proper authority" and for "alleged violation of leaving track in unsafe condition at same location" was without just and sufficient cause and on the basis of unproven charges (System Docket 661).

(2) The twenty-five (25) demerits imposed upon the claimant shall be removed from his record.

OPINION OF BOARD: Claimant A. McNeil, a **Trackman** in Carrier's employ on the Raritan Branch, was charged as a result of an occurrence on June 23, 1980, as follows:

Violation of leaving work site on Raritan Branch at approximately 2:10 p.m. on June 23, 1980 without proper authority. Also, alleged violation of leaving track in unsafe condition at same location.

A hearing into the matter was held on September 23, 1980. As a result of that hearing, Claimant was found guilty and assessed 25 demerits.

This Board has reviewed the transcript of the hearing, as well as other documents in the record. We are persuaded that Claimant was told to spike 14 ties before he left the work site and that he only spiked eight. He left the track in an unsafe condition and he left the property without authority. We need not comment on the seriousness of having a track in a condition where a derailment might occur, **nor** the seriousness of leaving a work site without proper authority. It is universally understood within the industry that such actions are unacceptable.

We **can** find no basis in the record for modifying Carrier's action in this instance.

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

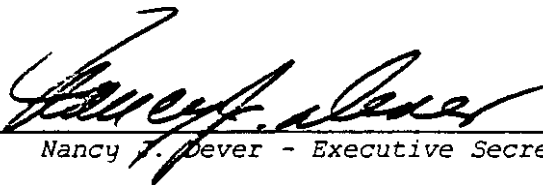
That the Agreement was not violated.

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.