

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25619  
Docket Number MW-25419

Nicholas **Duda**, Jr., Referee

(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(**The** Chesapeake and Ohio Railway Company  
(Southern Region)

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

(1) The dismissal of **Trackman** L. D. Collins for taking part "in altercations and confrontations, causing several threatened and actual physical assaults" on September 16, 1982 was excessive (System File C-D-1465/MG-3652).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired and, with the exception of five (5) days' pay, he shall be compensated for all wage loss suffered.

OPINION OF BOARD: The record establishes that Carrier had evidence of Claimant's responsibility and involvement in the altercations and other misconduct **on** September 16, 1982. Such acts of misconduct, which Claimant admitted, are very serious and constitute **just** and sufficient cause for discipline.

We do not find a basis within this record to support a finding that the Carrier acted arbitrarily, capriciously or in bad faith in dismissing Claimant. There was no violation of the Agreement so the claim must be denied.

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 A. Dever - Executive Secretary

Dated at Chicago, Illinois, **this** 19th day of September 1985.

