

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25626
Docket Number MW-25891

John W. Gaines, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way **Employes**
(Consolidated Rail Corporation

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

(1) The dismissal of **Trackman** H. E. **Avery** for alleged insubordination on June 16, 1983 was without just and sufficient cause (System **Docket CR-231D/DNO-43/783**).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: Claimant's dismissal on June 29, 1983, followed a formal hearing held on June 23, 1983, in which Claimant testified in his own behalf and two witnesses in Carrier's cause gave their testimony.

On the foregoing specified date of alleged insubordination, Claimant's Supervisor **gave** the instruction to Claimant to go from his position under the bridge to the tamper with which he was working previously. The tamper was in distance 800' to 1000' + away. Claimant had the **advantage** of having the specific purpose behind **the** instruction explained to him. Claimant obstinately **resisted** the Supervisor's specified purpose, arguing that in another aspect in the way the operation was developing he could see no necessity at the time to make his way to the tamper. In so doing he was completely defeating the very purpose and timing of the supervisory instruction. Still, Claimant persisted, and never complied.

Claimant compounded his recalcitrance when, next, he was instructed to go to the Company bus or, as he testified, to go sit on the bus. Carrier bused the work gang to and from work in two buses. Claimant failed to locate a Company bus; instead, he unpredictably left the area and did not return. The Supervisor testified that, in a matter of some minutes later when free, he readily located the sites of the two busses and noted the absence of Claimant when he went looking at both sites to talk to Claimant again.

Claimant did not obey orders, either one. He refused to accept instructions as to the tamper **at** least three times, once in the presence of the Equipment Engineer who testified that he was beside the Supervisor, and that the Supervisor gave the order to work with the tamper but that Claimant did not carry out the order. Claimant admitted to receiving the **order** to sit on the bus but, consistently, he never **carried** out that order, either.

The work **place** is no place to be insubordinate. There is a well recognized grievance procedure to follow later, which avoids the **confrontation** of immediately beginning to **argue** and challenging **authority**. In this Division's Award 21059 dealing with insubordination involving among other things the refusal, three times, by a wrench operator to return to his assigned position, we considered the operator's resulting dismissal and, in denying his claim for reinstatement, we stated: **"Consequently, it is well established that dismissal is not inappropriate in cases of insubordination (citing previous awards)." Insubordination is indeed a serious infraction.**

We must again, under the present circumstances. 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.

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 19th day of September 1985.

