

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25857  
Docket Number MW-25870

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(New Orleans Public Belt Railroad

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

(1) The dismissal of Trackman W. J. Ard for alleged 'failure to protect your assigned position since Thursday, April 7, 1983, or notify anyone in authority concerning your absence and inability to protect your assignment' was without just and reasonable cause and unwarranted (Carrier File 013.7).

(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 was formerly employed by the Carrier as a trackman. He was dismissed from service by Carrier's Manager, Engineering and Maintenance, effective April 14, 1983, for failure to protect his assigned position since April 7, 1983. A hearing in behalf of Claimant was requested by representatives of the Organization. The hearing was scheduled for May 6, 1983, but was postponed and conducted on May 27, 1983.

A transcript of the hearing conducted on May 27, 1983, has been made a part of the record. There seems to be no question that Claimant was absent from work on April 7, 8, 11, 12, 13 and 14, 1983. Some of the absences, such as the one on April 7, 1983, may have been excusable, but others were not. The Claimant was absent without permission or notice.

In the handling of the dispute on the property and in its submission to this Board, the Carrier has pointed out Claimant's prior record with respect to absenteeism, five suspensions and three dismissals. An employee's past record may always be considered in arriving at the discipline to be imposed for a proven offense.

Considering the entire record before the Board, there is no proper basis to interfere with the discipline imposed by the Carrier.

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 30th day of January 1986.

