

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26079
Docket Number MW-26252

John W. Gaines, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Burlington Northern Railroad Company
(St. Louis-San Francisco)

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

(1) The dismissal of Trackman R. M. Edmonds for alleged 'unsatisfactory work and violation of Additional General Rules 500 and 502' was without just and sufficient cause and on the basis of unproven charges (System File B-1950-2/MWC 84-1-30).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, the charges leveled against him shall be cleared from his record and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant while on the job with Tie Gang T-2-11 was dismissed for his unsatisfactory work. The dismissal was sustained following an Investigative Hearing held by Carrier on August 12, 1983.

There was substantial evidence to support Carrier's conclusion warranting discipline. Claimant has a poor work record over his relatively short period of employment, and has received oral and written counselling on aspects of his employment habits including unsatisfactory work. However, dismissal is too severe. The time that Claimant has been out of service should constitute sufficient discipline.

The procedural arguments raised are found to be without merit.

We will award that Claimant be reinstated with seniority and other rights unimpaired, but without back pay. This Award carries with it the strict understanding that Claimant is being given one last chance to become an effectively performing employee and that further major instances of poor work habits cannot be expected to occur without serious consequences.

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 discipline was excessive.

A W A R D

Claim sustained in accordance with Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois this 31st day of July 1986.