

(Brotherhood of **Maintenance** of Way Employees
PARTIES TO DISPUTE: (
(Missouri-Kansas-Texas Railroad Company

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

(1) The ten (10) days of suspension and ten (10) days of deferred suspension imposed upon Track Laborer D. W. Chapman for alleged violation of General Rules H, 607 (3) and (6) was without just and sufficient cause (System File 200-23/2579).

(2) The claimant's record shall be cleared of the charges leveled against him and he shall be compensated for all wage loss suffered."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the **employe** or **employees** involved in this dispute are respectively carrier and **employees** within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was employed as a Section Laborer and, on April 25, 1986, the Extra Gang he was assigned to **was** assisting a Section Gang in rerailing several hopper cars.

The record before this Board reveals that the Foreman from the Section Gang instructed the Claimant to perform a task related to the **rerailing** of the cars. The ensuing conversation resulted in the Claimant being charged with violating General Rules **H** and **607(3)** and (6) which in pertinent part read:

"H. Employes . . . **must** be courteous and orderly while on duty....

607. Conduct: Employes must not be: . . .

(3) Insubordinate: . . .

(6) Quarrelsome."

Following an investigation, the Claimant was assessed a **ten(10)** day actual suspension and a ten (10) day deferred suspension.

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Award No. 26866
Docket No. MW-27499
88-3-87-3-210

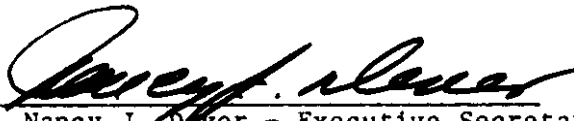
From the record before us **we** conclude that the Claimant's remarks to the Foreman were disrespectful. However, the evidence presented in connection with the insubordination charge is not sufficient to establish guilt and, as such, the discipline shall be reduced to a five (5) day actual suspension and a five (5) day deferred suspension. Claimant shall be compensated for all wage loss in excess of the five (5) day actual suspension.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.