

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Missouri-Kansas-Texas Railroad Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Missouri-Kansas-Texas Railroad Co.:

(a) on behalf of G. M. Harian, Lead Signalman, Gang No. 4066, who was dismissed on September 6, 1983, for alleged insubordination on August 18, 1983, being absent without proper authority on August 19-20-21, 1983 and for not reporting for duty at the appropriate time on August 24, 1983.

(b) Carrier should now be required to reimburse Claimant, G. M. Harian, for all time lost, including pro rata, punitive and holiday pay from September 6, 1983 until Claimant is reinstated to service by the Carrier with all rights restored. Carrier file 2619."

FINDINGS:

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

The carrier or carriers and the employee 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 by Carrier as a Lead Signalman on Gang No. 4066. On August 18, 1983, a hurricane hit Texas. As a result of the storm, severe damage was done to Carrier's signal equipment in the Houston area. Claimant's gang was ordered to report to Houston to begin repair of the signal equipment the same day. Claimant reported to Houston on the evening of August 18. He worked from 9:00 PM to 11:00 PM. When the gang was placed on rest status due to the Hours of Service Law, the gang was directed to report for work at 9:00 AM, Friday, August 19. Claimant did not report for work until August 22, 1983, when the gang had moved out of Houston. Claimant was also late for work on August 24. As a result of this behavior on the part of Claimant, he was charged as follows:

"Please arrange to report to the Signal Office, 101 East Main Street, Denison, Texas, at 9:00 a.m., Wednesday August 31, 1983, for a formal investigation to be held for the purpose of developing the facts and determining your responsibility, if any, for alleged violation of company rules and instructions for allegedly (1) Absenting yourselves from duty without proper authority on Friday, Saturday and Sunday, August 19 - 20 and 21, 1983, when your services were needed during an emergency in Houston, Texas, allegedly being instructed by Mr. J. N. Murphy, Thursday August 18, to go to Houston on an emergency basis and repair storm damage and also subsequently on Thursday night August 18, in Houston, Texas, allegedly being instructed by your supervisor, R. G. Clarkson, to report for duty at 9:00 a.m. Friday August 19, at Eureka Yard, for further duty following Hours of Service rest and (2) for allegedly being quarrelsome and discourteous to your superior, Mr. J. N. Murphy, when he issued the instructions to go to Houston for emergency work on Thursday August 18, 1983."

A hearing into the matter was held on September 1, 1983. As a result of that hearing, Claimant was found guilty as charged and dismissed from service. A transcript of that hearing has been made a part of the record. A review of that record reveals that Claimant was afforded all procedural and substantive rights guaranteed by Agreement and that Claimant was in fact guilty as charged. This Board cannot find any fault with Carrier's handling of the instant case. Claimant was guilty of serious charges and his dismissal can not be categorized as arbitrary or capricious.

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 23rd day of June 1988.