

The Third Division consisted of the regular members and in addition Referee W. F. Euker when award was rendered.

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(The Alton and Southern Railway Company

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

(1) The dismissal of Trackman F. C. Mitchell for alleged violation of Rules 600, 607(2), 607(3), 607(6) and 608 was unwarranted and unreasonable and in violation of the Agreement (Carrier's File 860046).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his record 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 employes involved in this dispute are respectively carrier and employes 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.

This dispute concerns the dismissal of a short-tenured employee who was charged and found guilty of failing to efficiently perform his assigned duties as a Trackman, coupled with his repetitive failure to comply with his Supervisor's instructions, all of which were allegedly in violation of certain identified Carrier General Rules. Following a formal Investigation held on July 24, 1986, premised on the charges outlined above, Claimant was advised he was dismissed from the service effective July 25, 1986. Claim was appealed in the usual manner on the property and is now ripe for our determination.

The trial record and accompanying exhibits reflect an on-going problem which Claimant appeared to experience in following corrective advice from his Superiors. The record does not indicate the specific times and dates each of these corrective instructions were issued, a failure the Organization felt

was critical; however, it does establish beyond cavil that Claimant was repeatedly told orally and in writing to shape up, apparently without noticeable success. Finally in a letter dated June 17, 1986, Carrier allegedly reached the limit of its patience, and informed Claimant: "This type of work performance and non-compliance with instructions will not be tolerated in the future." For the Claimant, the future arrived rather quickly, for on July 10, 1986, he was charged with the violations now under consideration.

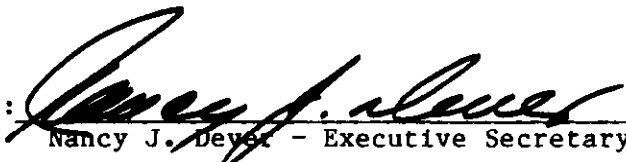
Based on the facts described above and others we have considered in our review of the files, we cannot find the Carrier's decision in this case to be palpably erroneous or without foundation in reason or fact and we must deny the Claim.

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 1st day of February 1990.