

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE: (James J. Springs  
(  
(CSX Transportation, Inc. (former Chesapeake and  
( Ohio Railroad Company)

STATEMENT OF CLAIM:

"Wrongful discharge of employee, James J. Springs, February 7th, 1989, with loss of all seniority and other rights, including wages."

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 were given due notice of hearing thereon.

Subsequent to an Investigation, the Claimant was terminated from service for refusal to perform work along with other employees, allegedly because of inclement weather. The evidence of record substantiates that the Claimant, in no uncertain (and descriptive) terms refused to perform his labor.

At the beginning of the Investigation, the Claimant stated that he was ready to proceed and that he did not desire any witnesses in his defense. At a later point in the Hearing, the Claimant identified two individuals as potential witnesses who could confirm his testimony. But, he himself conceded that the two individuals did not want to "become involved."

The Claimant could have arranged for the witnesses to be present and based upon this particular record we find no basis to conclude that the Carrier was remiss in its obligations under the Agreement.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:   
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1991.