

Award No. 12369

Docket No. MSX-14238

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bernard J. Seff, Referee

PARTIES TO DISPUTE:

HOMER BROWN

RAILWAY EXPRESS AGENCY, INCORPORATED

STATEMENT OF CLAIM: Claim is made for reinstatement of Homer Brown to the service of the Railway Express Agency, Inc., with seniority unimpaired and payment of all time lost subsequent to June 23, 1960, until restored to active duty.

Claim is also made for the vacation pay due Homer Brown at the time he was discharged by said Railway Express Agency, Inc.

OPINION OF BOARD: This is a discipline case in which the Claimant was discharged for insubordination.

A crew of men were assigned the task of unloading express shipments. When a tractor is available, the racks used for this purpose are pulled to the unloading point. On the night in question there was no tractor available and Claimant's Supervisor told the crew to pull the racks to the unloading point. Claimant refused to comply with these instructions and told his supervisor, Mr. Powell, to pull the racks himself. A hearing was held in the course of which the facts, as related supra were developed and, in addition, the Carrier showed that on a previous occasion a similar incident occurred as the result of which the Carrier gave the Claimant a reprimand and stated that if the Claimant was again insubordinate he would be discharged.

The action of the Carrier was reasonable under the circumstances and the discipline imposed will not be disturbed.

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 Employees involved in this dispute are respectively Carrier and Employees 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 action of the Carrier was neither arbitrary nor capricious.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1964.