

Award No. 15016

Docket No. CL-16237

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
SEABOARD AIR LINE RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5960) that:

(1) Carrier violated the rules of the Station and Storehouse Employees' Agreement when it dismissed Laborer Eddie Lee Davis from the service on December 2, 1964.

(2) Carrier now be required to reinstate Eddie Lee Davis with all rights unimpaired and pay for time lost from the date withheld from service (November 25, 1964) and subsequent thereto until reinstated in accordance with Rule 33(c) of said Agreement.

OPINION OF BOARD: The Claimant was dismissed from service for alleged insubordination in refusing to carry out instructions given by the Assistant Stevedore while on duty during the early morning of November 25, 1964. Following request of the Local Chairman, an investigation was conducted on January 5, 1965, and on January 19, 1965, the dismissal was affirmed by the Superintendent. On March 18, 1965, the General Chairman appealed the decision of the Superintendent to the Director of Personnel, requesting that Claimant be restored to service with all rights unimpaired on the ground that the discipline assessed was too severe. The appeal was denied by the Director of Personnel and the claim subsequently submitted to this Board.

The transcript of the investigation conducted on January 5, 1965, has been carefully reviewed, and while there was much in the investigation not relevant to the charge for which Claimant was dismissed, there was evidence, though disputed, that Claimant did not comply with instructions given him by the Assistant Stevedore. What transpired prior to the Assistant Stevedore telling Claimant to go home and report at the office the next morning is far from clear. Considering the entire record, we find that the discipline imposed was excessive. We will award that Claimant be restored to service with all rights unimpaired, but without any compensation for time lost while out of service.

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 disciplinary action imposed was excessive.

AWARD

Claim sustained to extent shown in Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of December, 1966.