

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19680
Docket Number MW-19886

John H. Dorsey, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(The Akron, Canton & Youngstown Railroad Company

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

(1) The dismissal of Machine Operators L. A. Case, R. L. Moore, Trackmen J. M. Gibson and R. A. Lutz from service for allegedly violating "Rules 404, 427 and 448 of the Operating Rules" was improper, without just and sufficient cause, based upon unproven charges and in violation of the Agreement.

(2) Machine Operators L. A. Case, R. L. Moore, Trackmen J. M. Gibson and R. A. Lutz be reinstated with seniority, vacation and all other rights unimpaired and that they be compensated for all wage loss suffered in accordance with Rule 21.

OPINION OF BOARD: This case, in essence, involves the same parties, schedule Agreement and letters of understanding that were involved in our Award No. 19566.

We agree with the Opinion in Award No. 19566 that Carrier violated the letters of understanding but that Carrier's violation "is not of such magnitude as to warrant a full reversal of the disciplinary action."

We believe it appropriate to reduce the measure of discipline. Accordingly, we shall sustain the claims for reinstatement of the Claimants with seniority, vacation and all other rights unimpaired; but, we shall deny the claims for compensation for wage losses.

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

Award Number 19680
Docket Number MW-19886

Page 2

That the Agreement was violated.

A W A R D

Claim sustained to the extent indicated in the Opinion, supra.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: E.A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of March 1973.