

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20651
Docket Number MW-20719

Francis X. Quinn, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Norfolk and Western Railway Company

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

(1) The dismissal of Laborers G. W. Harper and L. J. Copley on August 20, 1973 was without just and sufficient cause and on the basis of unproven charges (System File MW-PO-73-100).

(2) Laborer L. J. Copley be reimbursed for all monetary loss suffered from August 20, 1973 to February 25, 1974.

(3) Laborer G. W. Harper be restored to service, his record cleared, seniority and all other rights unimpaired and reimbursement be made for all time lost from date of dismissal to date of restoration to service, all in accordance with Rule 32 (c).

OPINION OF BOARD: The rule is well established that an employee is required to carry out his assigned duties, even when he feels aggrieved. The corollary to this rule, couched as an exception, grants an employee the right to abstain from executing an assignment when confronted by an immediate danger to himself, property, or the public. However, in the instant dispute, there was no valid justification for the conduct of the claimants on the morning of August 20, 1973 in willfully disregarding the orders of their supervisors. This act of insubordination was of such a nature as to justify the dismissal of these employees from 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

Award Number 20651
Docket Number MW-20719

Page 2

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 21st day of March 1975.