

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20762
Docket Number MW-20656

Robert A. Franden, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(Missouri-Kansas-Texas Railroad Company

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

(1) The suspension of Extra Gang Foreman I. L. Sedlar from April 9 to May 8, 1973 (both dates inclusive) was without just and sufficient cause and on the basis of unproven charges (System File 400-74/2579-23).

(2) The charge be removed from the claimant's record and the claimant shall be paid for time lost - all in accordance with Article 23, Rule 6 of the Agreement No. DP-357.

OPINION OF BOARD: Claimant was suspended from the service of the Carrier for thirty (30) days for an alleged violation of Rules C and I of the Carrier's operating rules.

Said rules read in part:

"Rule C. "Employes must be conversant with and obey the rules and special instructions****."

"Rule I. "****All employes are expected to *** promptly obey instructions from the proper authority in matters pertaining to their respective branches of the service."

Said suspension was rendered subsequent to a properly held investigation.

In essence, the Claimant was disciplined for failure to follow the Division Engineer's instructions to install certain rail anchors. The Claimant maintains that the time element interfered with his complying with the instructions on the day in question.

The record reflects that at the investigation sufficient evidence of probative value was adduced from which a reasonable man could conclude that Claimant was guilty of the offense charged. Under such circumstances, we shall not substitute our judgment for that of the Carrier.

We have been urged to find that the punishment was excessive, notwithstanding the guilt of the Claimant. We find nothing to support this position.

Award Number 20762
Docket Number MW-20656

Page : 2

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Parker
Executive Secretary

Dated at Chicago, Illinois, this 18th day of July 1975.