

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21461
Docket Number MW-21684

David C. Randles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Southern Pacific Transportation Company
(Texas and Louisiana Lines

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

(1) The dismissal of Track Laborer Carl Gotch was without just and sufficient cause and in violation of the Agreement (System File MW-75-49).

(2) The hearing held on the aforesaid dismissal was not fair and impartial as required by Article 14 (b) of the controlling Agreement.

(3) Track Laborer Carl Gotch shall be restored to service with pay for time lost and with all seniority rights unimpaired.

OPINION OF BOARD: Claimant was discharged from the service of the Carrier effective May 12, 1975, for tardiness and absenteeism. We have reviewed the record on the property and found that there is substantial evidence to find:

- (1) that there was just and sufficient cause to dismiss Track Laborer Gotch
- (2) that the contractual procedures for imposing the discipline and notification thereof were followed
- (3) that full and complete opportunity was given the claimant and his representatives to present evidence, witnesses and testimony, and that none of his rights were capriciously or arbitrarily violated.

The claimant in this matter did not refute or deny the charges of absenteeism or tardiness; however, the Organization challenges the inclusion of evidence in the record pertaining to the entire work history of the employee. The admissibility of said evidence did not sustain the unrefuted absence and tardiness contained in the specific charges but was related to the appropriateness of penalty. Such use of the entire work history is supported by precedent in the findings of the Board.

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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 18th day of March 1977.

