

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21683  
Docket Number MW-21691

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Louisville and Nashville Railroad Company

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

(1) The dismissal of Track Repairman W. H. Goatley was  
unwarranted and without just and sufficient cause [System File 1-9 (57)]/  
D-105891 E-306-97

(2) Track Repairman W. H. Goatley be reinstated with seniority  
and all other rights unimpaired and he be compensated for all wage loss  
suffered.

OPINION OF BOARD: This is a discipline dispute in which Claimant was  
dismissed from service for allegedly being insubor-  
dinate, profane and threatening towards his foreman.

In disputes such as this, the Board is limited in its review,  
assuming no procedural contentions, to in effect two areas: was there  
substantial evidence in support of the Carrier's conclusions, and  
secondly, was the discipline assessed appropriate or was it arbitrary  
and capricious. We may not, of course, make any findings with respect  
to credibility as that prerogative is solely in the hands of the hearing  
officer, and must be accepted.

In this case, a review of the transcript of the investigation  
indicates that there was substantial evidence to support Carrier's  
contentions with respect to Claimant: his actions were far from  
acceptable under any standards. The first standard, therefore, has  
been met. With respect to the measure of discipline imposed, there is  
no indication that it was arbitrary or capricious. This Board has  
frequently held that discharge is not inappropriate in cases involving  
insubordination or altercations with supervisors. We find no basis for  
disturbing the discipline in this instance.

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 Employes involved in this dispute are respectively Carrier and Employes 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. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1977.

