

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21686
Docket Number MW-21885

James F. Searce, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Port Terminal Railroad Association

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

(1) The dismissal of Track Laborer Melvin Johnson on the
unproven and disproven charge of

'walking off the job during an emergency'

in purported violation of Carrier's Rule 45 was without justification
and an arbitrary abuse of managerial discretion.

(2) Track Laborer Melvin Johnson shall now be allowed the
benefits prescribed in Agreement Rule 11(E).

OPINION OF BOARD: Claimant, a trackman, was dismissed from Carrier's
service for "walking off the job during an emergency."
Claimant had complained of a headache to his foreman and sought permission
to leave the work site. The foreman advised Claimant that permission to
leave the work site, prior to completion of the emergency work, must be
obtained from the Roadmaster in charge of the repair work. Claimant
shortly thereafter arbitrarily left the work site.

Considering the entire record in this dispute, including
Claimant's prior record, we do not find Carrier's termination of
Claimant's services to be arbitrary, capricious or unreasonable.
Accordingly, the claim will be denied.

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 Employee involved in this dispute
are respectively Carrier and Employee 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 31st day of August 1977.

