

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21695
Docket Number MW-21747

Robert W. Smedley, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(St. Louis-San Francisco Railway Company

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

(1) The dismissal of Trackman M. E. Schroeder on May 9, 1975 was without just and sufficient cause and on the basis of unproven charges (System File B-1467).

(2) The charge shall be stricken from the claimant's record and he shall be allowed payment as stipulated in Agreement Rule No. 91 (b) (6).

OPINION OF BOARD: The record shows that claimant was dismissed from Carrier's service on May 9, 1975 for not promptly reporting an alleged personal injury. He was restored to service on August 4, 1975. The claim before the Board is for pay for time out of service.

We have carefully reviewed the entire record in the dispute. We do not agree with the position of the Petitioner that the investigation was conducted in such a manner as to be prejudicial to claimant. The record of the investigation indicates that the supervisor conducting it did bear down hard in his questioning. However, he was thorough and we should not confuse detailed persistent questions with prejudice. See Second Division Award 6381.

Discipline was warranted; however, in our considered opinion suspension beyond thirty days was not justified. We will award that claimant be paid for all time lost in excess of thirty days, or from June 8, 1975, computed in accordance with Rule 91(b)6.

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 discipline imposed was excessive.

A W A R D

Claim sustained to the extent indicated in Opinion and Findings.

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.

