

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21830
Docket Number MW-22038

Don Hamilton, 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. A. Young was without just and sufficient cause (System File B-1478).

(2) Claimant Young shall now be granted the privileges and benefits of Agreement Rule 91(b) (6).

OPINION OF BOARD: The Foreman and the Special Equipment Operator complained to the Roadmaster that it was unsafe for them to work with the Claimant, M. A. Young. Specifically, they alleged:

"He ducks under the rail when handling rail in the air. When carrying rail from one location to another, he walks with his feet under the rail. When hooking rail, he hooks so far from the center, that the rail is unsafe to handle. That causes more wear and tear on the machine. It is hard to keep the rail out of the boom. This happens every day that he is here. You also know when the cable gets crossed up, and a load hits it, it will break, or be cut where crossed. He is the only one that has ever been around this welding plant that can't keep the slack out of the cable. He has been told how, when, and where to hook the rail, and he has been shown many, many times how to do it. It does not do any good."

The Foreman removed the Claimant from service January 30, 1976, for unsafe work and unsafe actions. A formal investigation was conducted February 17, 1976, and the Claimant was permanently removed from the service of the Carrier by letter dated February 20, 1976.

The Carrier subsequently agreed to reinstate the Claimant March 29, 1976, without pay for time lost.

The record clearly indicates that some discipline is warranted. However, the discipline should be reduced to a 30 day suspension.

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 discipline was excessive.

A W A R D

Claim sustained as indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 6th day of January 1978.

