

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22128  
Docket Number MW-21999

Herbert L. Marx, Jr., Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Terminal Railroad Association of St. Louis

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

(1) The removal from service of Track Laborer Levern Brown on December 23, 1975 and the subsequent assessment of 'twenty-six (26) days off including Saturdays and Sundays and Holidays' was without just and sufficient cause and on the basis of unproven charges (System File TRRA 1976-8).

(2) The charge shall be stricken from the claimant's record and he shall be allowed payment for the monetary loss suffered (Agt. Rule 24-d)."

OPINION OF BOARD: Claimant Levern Brown was disciplined by suspension of twenty-six days following a hearing on a charge of insubordination which resulted from an encounter between him and his Supervisor on December 23, 1975.

Careful review of the entire record in this case convinces the Board that Claimant has received all the due process rights to which he is entitled under the Rules Agreement. The hearing record contains substantial evidence to support the conclusion as reached by the Carrier that claimant by his attitude and actions was insubordinate. The discipline as assessed was not unreasonable or capricious.

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;

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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 30th day of June 1978.

