

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22145
Docket Number MW-22055

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Illinois Central Gulf Railroad Company

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

(1) The suspension of Trackman M. Wells 'for a period of thirty days beginning November 6, 1975' was without just and sufficient cause and on the basis of unproven charges (System File T-197-T-75/134-296-362 Spl. Case No. 1014 MoFW 41-16)

(2) The claimant shall now be accorded the benefits prescribed within Agreement Rule 35(1)."

OPINION OF BOARD: This is a discipline dispute in which Claimant was given a thirty day suspension. Claimant was charged with insubordination, use of profanity and being tardy. He was found to be guilty of the first two charges.

The crux of this dispute is a substantial conflict in the testimony of Claimant and his witnesses and the testimony of Carrier witnesses at the investigation. This Board is not in a position to make credibility findings; that task is reserved to the trier of facts on the property. This principle has been adhered to by this Board for many years and is well established (see for example Awards 19487, 21290, 21278 and 21238). Since the conflicts in the testimony were resolved by the hearing officer in favor of Carrier, there is no question but that there was substantial evidence to support Carrier's conclusion that Claimant was guilty of the two charges.

In view of the guilt of Claimant, the measure of discipline in this dispute was quite reasonable; much more severe discipline has been imposed for similar infractions. We have no basis for questioning Carrier's actions in this case.

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 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 July 1978.

