

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22372
Docket Number MW-22483

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Atlanta & Saint Andrews Bay Railway Company

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

(1) The dismissal of Michael E. Frazier was without just and sufficient cause and it was excessively disproportionate to the offense with which charged (System File 1-19 (1) (77)/C 5.26A).

(2) Claimant Frazier shall be reinstated to service with seniority unimpaired and with pay for all time lost."

OPINION OF BOARD: Claimant was charged with insubordination. An investigation was held on November 22, 1977 wherein he was found guilty of the specification and subsequently dismissed from service, effective, December 19, 1977.

Accordingly, pursuant to our appellate responsibility under the Railway Labor Act, we examined the investigative transcript to insure that appropriate due process standards were scrupulously observed.

Since we have not found, after this careful review, any procedural irregularities that might impair or call into question the integrity of the administrative proceeding, we will proceed to assess judicially the dispute's merits.

This Board has articulated over a long period of time a consistent body of decisional law methodically distinguishing and defining the contours and acceptable bounds of progressive discipline.

We well nigh recognize the importance of employe rehabilitation in modern labor-management relations and have assiduously focused our efforts to effectuating this policy objective.

But we have in the case before us, an employe, who in a short period of time, has managed to compile a poor employment record.

The Railroad industry is vested with a profound public interest that transcends most employment relationships. The safe and orderly operations of a rail transportation system, demands at an irreducible minimum, disciplined and obedient employes. Claimant's insubordinative manifestations fell short of this requirement and his one (1) and one-half ($\frac{1}{2}$) year service record did not compensate for it.

Pertinent to our determination and controlling herewith is Third Division Award 20263 (Referee Lieberman), where we held,

"Although we recognize that there are degrees of insubordination and abuse, we do not concur in Petitioner's argument. Taken alone we may well have found that the penalty imposed was excessive for the incident involved herein. However, it is well established that carrier may properly consider the employes service record as a whole in determining the measure of discipline. Considering the poor record of claimant in the less than four years of service, we do not find any basis for the contention that carrier's imposition of dismissal was an abuse of managerial discretion."

We believe this principle is directly applicable to the fact specifics herein.

We will thus deny the claim.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

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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 March 1979.