

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22454
Docket Number MW-22472

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Seaboard Coast Line Railroad Company

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

(1) The dismissal of Trackman M. Pelham was without just and sufficient cause and on the basis of unproven charges /System File 12-39(77-21)J/C-4(13)-MP/.

(2) Trackman M. Pelham be returned to service with seniority and all other rights unimpaired, the charges leveled against him be stricken from his record and he be reimbursed for all wage loss suffered."

OPINION OF BOARD: Claimant, prior to his dismissal, was employed as a track laborer and assigned to Section Force 6511. He was removed from service on May 19, 1977, on the basis that while working on May 18, 1977, he was insubordinate to his foreman and threatened to strike him. A formal investigation was conducted on May 31, 1977, to determine the facts surrounding the incident on May 18. Claimant was present at the investigation and represented by officers of the petitioning organization.

The Board has carefully reviewed the entire record, including the transcript of the investigation conducted on May 31, 1977. We find that none of claimant's substantive procedural rights was violated. There was substantial evidence presented at the investigation to support the charge. The foreman was in charge of the gang and was responsible for the work performed by the gang. The claimant was obligated to comply with the instructions of his foreman and then complain through the grievance procedure if he thought he was being mistreated.

The Board finds no proper basis for disturbing the action of the Carrier, and the claim will be denied.

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. Pauler
Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1979.

