

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22483
Docket Number MW-22685

Paul C. Carter, 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 I. J. Jenkins was without just or sufficient cause, was on the basis of unproven charges and exceedingly disproportionate to the offense with which charged (System File B-1533).

(2) The Carrier shall restore Claimant Jenkins to service and extend to him all other remedies and benefits prescribed in Agreement Rule 91(b) (6)."

OPINION OF BOARD: Claimant, a trackman, with approximately three years' service with the Carrier was dismissed from service by Carrier's Assistant Roadmaster on September 2, 1977, after a rather heated argument and the claimant making statements that the Assistant Roadmaster felt were threats upon his life. Upon request, a formal investigation was conducted on October 3, 1977, and claimant's dismissal was confirmed on October 10, 1977.

Carrier's rules governing Maintenance of Way employees provide:

"175. Civil, mannerly deportment is required of all employees in their dealings with the public, their subordinates, and each other. Boisterous, profane or vulgar language is forbidden. Courtesy and attention to patrons is required. Employees must not enter into altercations with any person, no matter what provocation may be given, but will make note of the facts and report to their immediate superior.

"176. Employees who are negligent or indifferent to duty, insubordinate, dishonest, immoral, quarrelsome, insolent or otherwise vicious, or who conduct themselves and handle their personal obligations in such a way that the railway will be subject to criticism and loss of good will, will not be retained in the service."

We have carefully reviewed the transcript of the investigation conducted on October 3, 1977, and find substantial evidence to support the action of the Carrier in dismissing claimant. The claimant stated that during the conversation with the Assistant Roadmaster he told the Assistant Roadmaster that "...he could make me do nothing," that "....it takes a king to kill a king..." and that "...You all have caused one big killing out here running over people so you might as well go on and leave me alone....." The claimant was evidently referring to an incident some time prior on the Carrier property when an employe shot and killed a Roadmaster and wounded a Division Engineer.

The record also shows that claimant had previously been removed from service for taking the position that the foreman and assistant foreman could not instruct him in his work.

On the entire record, there is no proper basis for this Board to interfere with the discipline imposed by the Carrier.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 24th day of August 1979.