

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22490
Docket Number MW-22336

Joseph A. Sickles, 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 suspension of thirty (30) days imposed upon Trackman R. L. Gaston for alleged insubordination was capricious, arbitrary, unwarranted and an abuse of justice and discretion [System File 12-39 (76-33) J/C-4 (13)-RLG/.

(2) The claimant's record be cleared of the charge placed against him and reimbursement be made for all wage loss suffered."

OPINION OF BOARD: The Claimant was notified to appear for an investigation concerning an asserted insubordination. Subsequent to the investigation, he was assessed a thirty (30) day suspension.

Regardless of the incident which set this matter into motion, the fact remains that the Claimant refused to accept a warning letter from a Carrier Official. While there is certain conflict as to the reasons which motivated the refusal, there is evidence which tends to show that the employe was not confused as to the contents and purpose of the letter. Thus, we find no basis for disturbing the finding of guilt. Concerning the quantum of punishment, our attention has been invited to our recent Award 22380. There, we reduced a dismissal for insubordination to a ninety (90) day suspension.

Here, the Claimant urges that his past record warrants an action of reducing the suspension. Carrier disagrees, insisting that the employe could have been dismissed for his actions.

We cannot devise an arbitrary scale which measures the amount of discipline due in each case. Rather, we must review each case to assure that Carrier's action was not arbitrary. We will 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 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 24th day of August 1979.