

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22619
Docket Number MW-22768

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Louisiana & Arkansas Railway Company

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

(1) The dismissal of Track Laborer George Williams was without just or sufficient cause and was disproportionate to the offense with which charged (Carrier's File 013.31-186/013.293).

(2) Track Laborer George Williams be reinstated with seniority and all other rights unimpaired and he be reimbursed for all monetary loss suffered, including holiday pay, beginning October 10, 1977."

OPINION OF BOARD: The record shows that claimant originally entered Carrier's service as a laborer on April 11, 1973. He was involved in a force reduction on August 31, 1973, and, as a result of failing to exercise his seniority rights under the agreement, he was dropped from service. On April 6, 1974, he was re-employed as a laborer on Carrier's Extra Gang No. 500.

Claimant was dismissed from service for reporting for duty in an intoxicated condition on August 16, 1977. At the request of a representative of the Organization, a formal investigation was conducted on September 12, 1977, following which claimant's dismissal was affirmed on September 23, 1977.

A copy of the transcript of the investigation conducted on September 12, 1977, has been made a part of the record.

The Board has carefully reviewed the transcript of the investigation and the submissions of the parties. The Board concludes that discipline was warranted, but finds that permanent dismissal was excessive. We will award that claimant be restored to the service with seniority and other rights unimpaired, but without pay for time lost while out of service.

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 discipline imposed was excessive.

A W A R D

Claim sustained to the extent indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 9th day of November 1979.

DEC 14 1979