

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22664
Docket Number MW-22469

William M. Edgett, 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) Trackman-Driver W. G. Woody was withheld from service without just or sufficient cause during the period extending from April 13, 1977 through May 1, 1977. (System File No. B-942)

(2) The charge shall be stricken from the record and Claimant Woody shall be paid for all time lost, all in conformance with Agreement Rule 91(b) (6)."

OPINION OF BOARD: Claimant was dismissed from Carrier's service for violation of Rules 176, 177, and 189 on April 13, 1977. After conference with the organization's Vice General Chairman, Carrier agreed to return Claimant to service on May 1, 1977. Claimant here seeks payment of the time lost, which Carrier has counted as a period of disciplinary suspension.

A review of the record shows that Carrier had ample evidence to find that Claimant violated the Rules cited. There were mitigating circumstances connected with the violation of Rule 189. However, Claimant's conduct clearly placed him in violation of Rules 176 and 177.

Those Rules read:

"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."

"177. Employees must be alert, devote themselves exclusively to the service, give their undivided attention to their duties during prescribed hours, reside wherever required, and obey promptly instructions from the proper authority in matters pertaining to their respective branches of the service."

The record fails to show any basis for sustaining the claim. Carrier acted well within its prerogatives.

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. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 14th day of December 1979.