

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22696  
Docket Number MW-22772

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Joint Texas Division of CRI&P-FW&D Railway Companies

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

(1) The discipline of dismissal assessed Trackman L. C. Douglas was arbitrary and without just or sufficient cause.  
/System File B-11-77/JT G-90 (MW)\_/

(2) Claimant L. C. Douglas be reinstated to service with all seniority and benefits unimpaired and he be compensated for all wage loss suffered, including holiday pay, in accordance with Rule 26 of the Agreement."

OPINION OF BOARD: Claimant was a laborer in Carrier's Extra Gang No. 1. He was removed from the service by the Roadmaster on October 19, 1977; for alleged insubordination and the use of profane language to the Roadmaster.

On October 21, 1977, claimant was notified to attend investigation on October 26:

".....for the purpose of ascertaining the facts and determining your responsibility, if any, in connection with your alleged insubordination and use of abusive language to Mr. T. O. Little, Roadmaster, near Flynn, Texas, about 1:00 P.M., Wednesday, October 19, 1977, during your tour of duty as trackman on Extra Gang No. 1 (tie gang)."

The investigation was postponed and held on November 4, 1977, and claimant was notified on November 9, 1977, of his dismissal from the service.

A copy of the transcript of the investigation conducted on November 4, 1977, has been made part of the record. A review of the record shows that none of claimant's substantive procedural rights was violated. There was substantial evidence in the investigation to support Carrier's action in dismissing claimant from service. There is no proper basis for the Board to interfere with the action taken.

As we have decided the case on its merits, there is no necessity to pass upon the procedural issue raised.

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:

  
Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1980.

