

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22836
Docket Number MW-22943

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Chicago, Rock Island and Pacific Railroad Company
(William M. Gibbons, Trustee)

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

(1) The dismissal of Trackman C. L. Wilson for alleged insubordination on May 20, 1978 was wholly disproportionate to the charge leveled against him (System File 11-D-801/L-126-1696).

(2) Trackman C. L. Wilson be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant, a track laborer in carrier's employ, was discharged from service for insubordination. He was accused of violating Rule N of the Rules and Regulations for Maintenance of Way and Structures.

Claimant's discharge occurred on May 20, 1978, when he was fired by Foreman Hagen for refusing an order to work. A hearing was held in the matter on June 19, 1978, and carrier concluded, as a result of that session, that the discharge was appropriate. This fact was communicated to claimant in a letter dated June 29, 1978. The stenographic record of the hearing is a part of the present record.

After a review of those minutes and the record before us, this Board concludes that claimant has been afforded all of his rights under the agreement.

It is generally accepted in the railroad industry, as well as in every other industry in the country, that insubordination (especially the refusal of a direct order from a supervisor) is grounds for discharge. If an order is given that an employe feels is unfair, inappropriate, or in violation of a collective bargaining agreement, it is the employe's obligation to follow the order and obtain redress through the grievance procedure. An employe cannot resort to self help and expect to be vindicated.

In the instant case, claimant was insubordinate. He resorted to self help by complaining about being "picked on" and by malingering when ordered by his foreman to clean up the track area and the right of way. This type of behavior cannot be tolerated by the carrier. If it were to go unpunished, the railroad would be leaving itself open to other cases of insubordination. This would seriously impair its ability to get the required work done in a timely and efficient manner. No person connected with employer-employee relations on either side of the table can condone such behavior. This Board finds that claimant was insubordinate and supports the carrier's action in this instance.

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 16th day of May 1980.