

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22962
Docket Number MW-23102

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(St. Louis-San Francisco Railway Company

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

(1) The dismissal of Trackman M. G. Gilley for alleged violation of Rule 176 was without just and sufficient cause and wholly disproportionate to the offense with which charged (System File B-1821).

(2) Trackman M. G. Gilley shall now be afforded the remedy prescribed in Article 11, Rule 91(b)(6)."

OPINION OF BOARD: Claimant had been in Carrier's service about two months as trackman, and at the time of the occurrence giving rise to the dispute herein, was assigned to Tie Gang T-2-11, and was working under the direction of Assistant Foreman, Steve Gunn. On August 17, 1978, while working in Lindenwood Yard (St. Louis, Missouri) claimant was dismissed from service for insubordination to Assistant Foreman Gunn.

At the request of the Organization, a formal investigation was conducted on September 11, 1978. Following the investigation, claimant's dismissal was affirmed on September 20, 1978.

Rule 176 of Carrier's Rules for Maintenance of Way and Structures, reads in part:

"Employes who are negligent or indifferent to duty, insubordinate....quarrelsome, insolent or otherwise vicious....will not be retained in the service."

Without detailing the evidence adduced at the investigation on September 11, 1978, suffice it to say that the Board finds substantial evidence to support claimant's dismissal. Considering claimant's short period of service, the discipline imposed was not excessive.

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 28th day of August 1980.

