

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23140
Docket Number MW-23292

Paul C. Carter, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
{ The Chesapeake and Ohio Railway Company
{ (Northern Region)

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

(1) The dismissal of Trackman Joe A. Washington was without just and sufficient cause and wholly disproportionate to the charge leveled against him (System File C-D-711/MG-2445).

(2) Trackman Joe A. Washington shall be reinstated and compensated for all wage loss suffered."

OPINION OF BOARD: Prior to claimant's dismissal, he was employed as a trackman, assigned with Track Force No. 1289, under the supervision of Track Foreman Weaver. On December 15, 1978, claimant was notified by the Carrier's Manager-Engineering:

"Please arrange to attend hearing in the office of Track Supervisor, 501 Potter Street, Saginaw, Michigan at 9:30 a.m. on Friday, December 29, 1978.

You are charged with loud and abusive language and conduct unbecoming an employee, and threatening your foreman to do bodily harm in connection with your activity near Atwood Junction, Burton, Michigan on December 13, 1978. Arrange for representation and/or witness if desired."

The investigation or hearing was conducted as scheduled, and on January 11, 1979, claimant was notified of his dismissal from service. A copy of the transcript of the hearing has been made a part of the record. We have reviewed the transcript and find that none of claimant's substantive procedural rights was violated. Claimant was present throughout the

investigation and was represented. There was substantial evidence adduced at the hearing in support of the charge against claimant. He was guilty of conduct that cannot be condoned. The claim will be denied.

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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1981.