

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23312
Docket Number MW-23307

Josef P. Sirefman, 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 Daniel R. Bale for alleged violation of Rule 176 was without just and sufficient cause and wholly disproportionate to the charge leveled against him (System File B-1867).

(2) Trackman Daniel R. Bale shall be reinstated with seniority and all other rights unimpaired and be compensated for all wage loss suffered."

OPINION OF BOARD: The Claimant Daniel R. Bale, was employed by the St. Louis-San Francisco Railway Company on October 21, 1978 and on March 7, 1979 was a trackman in System Tie Gang T-1-10. On that day he was dismissed for violation of Rule 176:

"Employees who are negligent or indifferent to duty, in-subordinate, 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."

An investigation was held on March 29, 1979 resulting in the Claimant's permanent dismissal.

An examination of the record at the hearing reveals that on March 7, 1979 Claimant had failed to pull seven spikes over a fifty foot length, that he had been warned before that his spike pulling rate was slowing the work of the gang and that he had to work faster. Claimant offered conflicting reasons for missing spikes, on the one hand that some of the crew were not doing their job and on the other that he tries to get every spike but doesn't see some. However, at no time did he deny missing the spikes on that day. Although in service but five months, Claimant has been warned by supervision on some six occasions about his rate of work and has been moved to all types of jobs which apparently he cannot perform. He requires constant supervision, time which the foreman should devote to other duties. There was substantial evidence to sustain the Carrier's decision, and in view of Claimant's poor record over a short period of employment dismissal was not unreasonable.

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 29th day of May 1981.

