

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23443  
Docket Number MW-23230

Josef P. Sirefman, Referee

PARTIES TO DISPUTE:

{ Brotherhood of Maintenance of Way Employees  
{ Seaboard Coast Line Railroad Company

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

(1) The dismissal of Trackman John Brown, Jr. for alleged vicious and uncivil conduct was without just and sufficient cause (System File C-4(13)-JB/12-39(78-25) J).

(2) Trackman John Brown, Jr. shall be reinstated with seniority and all other rights unimpaired, his record be cleared, and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: The Claimant, John Brown, Jr., a Trackman, entered the service on March 30, 1970. A hearing was held on May 18, 1978 in connection with the Charge that Claimant had violated Rule 18 of the Seaboard Coast Line Railroad Company Safety Rules for Engineering and Maintenance of Way Employees concerning vicious or uncivil conduct. On May 25, 1978 Claimant was given written notification of dismissal by the Division Engineer.

An examination of the record by the Board establishes that Claimant, on May 8, 1978, acted in a manner which seriously menaced a fellow employee in violation of Rule 18. There was substantial evidence to sustain Carrier's decision to discipline Claimant. In view of Claimant's prior record, including a 30-day suspension in 1977 for violation of the same Rule, dismissal is reasonable.

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.

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By Order of Third Division

Attest: *A. W. Paulsen*  
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of November 1981.

