

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23473
Docket Number MW-23252

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 D. G. Johnson for alleged violation of Rule 18 was unwarranted, without just and sufficient cause and on the basis of unproven and disproven charges (System File C-4(13)-DGJ/12-39 (79-10) J).

(2) Trackman D. G. Johnson be reinstated with seniority and all other rights unimpaired, his personal record be cleared of the charge leveled against him and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant D. G. Johnson, a Trackman, was charged with violating Rule 18 of the Carrier's Safety Rules For Engineering and Maintenance of Way Employees ("Employees must work in harmony with associates"), based on an incident between Claimant and his Roadmaster on September 7, 1978. A hearing was held on September 22nd and Claimant was dismissed on October 3, 1978.

A review of the record before this Board establishes that Claimant was argumentative with his Roadmaster and slammed mail down on the latter's desk as a display of anger and threatened him. There was substantial evidence in the record to sustain Carrier's decision to discipline Claimant. In view of Claimant's relatively short tenure as an employee of Carrier, a 30 day suspension about a year prior for violation of the same Rule, and that Claimant was in the middle of another five day suspension when the incident took place, dismissal was 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.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A. W. Paulsen

Executive Secretary

Dated at Chicago, Illinois, this 8th day of December 1981.

