

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23507
Docket Number MW-2388

Paul C. Carter, Referee

PARTIES TO DISPUTE: {
(Brotherhood of Maintenance of Way Employees
(Consolidated Rail Corporation
((former Penn Central Transportation Company)

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

(1) The dismissal of Trackman Odell Givens for alleged 'Insubordination at M.P.143.8 on the Kankakee Branch at 9:30 A.M., September 13, 1978' and for allegedly 'Threatening bodily harm to Supervisors, September 14, 1978 at 6:15 A.M.' was without just and sufficient cause and unwarranted (System Docket 386).

(2) Trackman Odell Givens 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 record shows that claimant entered the service of the Carrier on September 20, 1976. At the time of the occurrence giving rise to the claim herein, claimant held a position of trackman on the Kankakee Branch, Chicago Division, Western Region.

On September 15, 1978, the claimant was notified to attend a trial on September 22, 1978, on the charge:

"1. Insubordination at M.P.143.8 on the Kankakee Branch at 9:30 A.M., September 13, 1978.

2. Threatening bodily harm to Supervisors, September 14, 1978, at 6:15 A.M."

The trial was held as scheduled and on October 4, 1978, claimant was notified of his dismissal from service for the offenses with which charged.

A copy of the transcript of the trial, or investigation, has been made a part of the record. A review of the transcript shows that none of claimant's substantive procedural rights was violated. The trial, or investigation, was conducted in a fair and impartial manner. There was substantial evidence adduced at the trial to support the charges against the claimant, and there is no proper basis for the Board to interfere with the discipline imposed.

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 I D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulson

Executive Secretary

Dated at Chicago, Illinois, this 29th day of January 1982.

