

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23526  
Docket Number MW-23894

Paul C. Carter, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees  
{  
{ New Orleans Public Belt Railroad

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

(1) The dismissal of Trackman Horace Thornton for allegedly being 'unable to perform the assigned duties as Trackman' was without just and sufficient cause (Carrier's File 013.7).

(2) Trackman Horace Thornton shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant had been employed as a trackman on August 27, 1979, and was dismissed from the service by the foreman on November 30, 1979, for unsatisfactory service and being unable to perform the duties of a trackman. Following claimant's dismissal, a hearing was held on January 3, 1980, and on January 17, 1980, his dismissal was affirmed.

A copy of the transcript of the hearing held on January 3, 1980, has been made a part of the record. We have reviewed the transcript and find that the hearing was conducted in a fair and impartial manner. The record shows that claimant was dismissed after approximately ninety days service.

A review of the transcript of the hearing shows substantial evidence that claimant was not able to satisfactorily perform the work of a trackman and that he performed his work in an unsafe manner.

Based on the entire record, there is no proper basis for interfering with Carrier's action, which we find was not arbitrary, capricious or in bad faith.

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 Employee involved in this dispute are respectively Carrier and Employee 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. Paulson  
Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1982.

