

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23971  
Docket Number MW-23828

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(Southern Pacific Transportation Company (T&L Lines)

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

(1) The dismissal of Laborer A. W. Page for alleged violation of Rules 801 and 802 was without just and sufficient cause and exceedingly harsh (System File MW-80-17/272-8-A).

(2) Laborer A. W. Page shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant A. W. Page, a Laborer, was dismissed by his Yard Foreman on October 25, 1979 for insubordination in refusing to carry out a direct order. A hearing was held on November 30, 1979 and the Carrier sustained the dismissal on December 3, 1979.

A review of the record, namely the testimony of the Yard Foreman, Leadman, and that of Claimant establishes that there was substantial evidence to sustain the Carrier's decision to discipline Claimant for the October 25th incident. In view of Claimant's poor record during a short period of service the penalty of 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.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By *Rosemarie Brasch*  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 27th day of August 1982.

