

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24575
Docket Number MW-24786

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Seaboard Coast Line Railroad Company

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

(1) The dismissal of Trackman J. E. Holmes for alleged violation of Agreement Rule 17(b) was without just and sufficient cause and on the basis of unproven charges [System File 37-SCL-81-3/12-39(81-20)G].

(2) Trackman J. E. Holmes 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 herein, with about seven years of service, was assigned to Carrier's Timbering and Surfacing Gang No. 8589, which, at the time of the occurrence giving rise to the claim herein, was located at Tyrone, Georgia.

The Claimant was one of the employes riding to work with the Claimant involved in Award No. 24574. In our Award No. 24574 we discussed the circumstances involved. Apparently for some good reason, the Carrier conducted separate investigations involving the Claimant in Award No. 24574 and the Claimant herein, although both were involved in the same automobile trouble in attempting to get to the job on the same day. By conducting two investigations, the Carrier has limited itself to the evidence adduced in each investigation and may not properly use evidence in one investigation to offset something in the other.

We see no reason for repeating here everything written in Award No. 24574. Suffice it to say that we consider some discipline warranted in the present case, but permanent dismissal was excessive. We will award that Claimant be restored to service with seniority and other rights unimpaired, but without any compensation for time lost while out of the service.

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 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

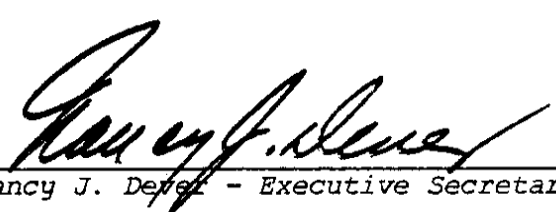
That the discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 15th day of December 1983.