

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24648  
Docket Number MW-24685

Robert W. McAllister, 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 R.P. Wiley for alleged "Failure to follow orders of Foreman J. Schauer" on April 10, 1980 was without just and sufficient cause (System Docket No. 600).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: The Claimant, Richard P. Wiley, a Trackman, entered the Carrier's service on November 1, 1976. He was dismissed by the Carrier on July 24, 1980, on four counts involving failure to follow orders. The Organization charges the Carrier's refusal to grant a postponement of the scheduled May 28, 1980, hearing deprived the Claimant of a fair and impartial trial.

The record does not support this assertion. This Board has studied the transcript and is satisfied the Claimant was afforded every opportunity to be present at the hearing and, for reasons only known to him, chose not to attend.

Turning to the merits of the four counts of insubordination, the Board notes that the direction and control of railroad operations are reserved to the Carrier. Should the Carrier violate the terms and conditions of the collective bargaining agreement, the Railway Labor Act provides recourse. Notwithstanding, the orders and direction of management must be followed. Adherence to such directives is not discretionary. Simply put, the orders of management must be complied with. An employee who perceives himself to be aggrieved must follow the instructions given and, thereafter, seek relief through the grievance procedure. Herein, the record establishes sufficient evidence to support the Carrier's action of removal. When this action is considered, in light of the Claimant's prior record, the Claimant's dismissal is commensurate with the proven offense of insubordination.

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

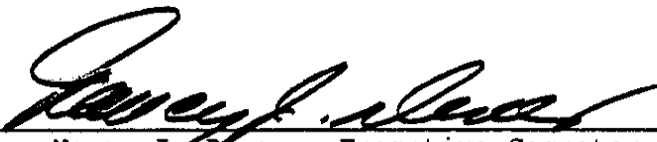
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of January, 1984

