

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24686
Docket Number MW-24815

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(The Chesapeake and Ohio Railway Company

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

(1) The dismissal of Trackman John Salyer for alleged insubordination and for being "quarrelsome to Assistant Supervisor of Track" on May 7, 1981 was excessive and wholly disproportionate to the offense with which charged (System File C-D-1161/MG-3162).

(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: This dispute centers on events which took place on May 7, 1981, at approximately 9.30 a.m. At that time, the Claimant, a Trackman, reported for duty at this work site. His assigned hours were 7:30 a.m. to 4:00 p.m. The Supervisor refused the Claimant's request to work that day because he had warned him the previous day, May 6, that he would not be permitted to work the next time he reported late. The May 6 discussion was a continuation of earlier repeated warnings concerning tardiness. Following the Carrier's refusal of the Claimant's request to work that day, the Carrier contends that he directed obscene language and gestures toward his Supervisor. The Claimant therefore was charged with being insubordinate.

After an investigative hearing, the Claimant was dismissed from Carrier's service.

The Claimant's testimony and the remainder of the record before us supports the Carrier's decision. Having so found, and in recognition of the Claimant's previous disciplinary record and short tenure, the Board has no basis to disturb the penalty assessed.

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 Employes involved in this dispute are respectively Carrier and Employes 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

The Agreement was not violated.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 24th day of February, 1984

