

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24796
Docket Number MW-24847

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Maine Central Railroad Company

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

(1) The dismissal of Trackman W. Swett for alleged 'conduct unbecoming a Maine Central Railroad employee' was without just and sufficient cause and on the basis of unproven charges.

(2) Trackman W. Swett shall now be allowed the benefits prescribed in Agreement Rule 22(c)."

OPINION OF BOARD: The Claimant, who had been employed on a seasonal basis as a Trackman, was found guilty in Civil Court on two counts of criminal threatening, and was sentenced to six months in jail.

Thereafter, as a result of a hearing held on February 6, 1981, the Carrier found him guilty of the charge of conduct unbecoming an employee, and he was discharged from the service.

The Carrier raises a procedural objection, based on the time limit rule, concerning the movement of this case for review by the Board. With respect to the time limit contentions of the parties, the Board essentially adopts the Organization's argument and rationale on this point. Accordingly, the merits of the issue presented are properly before the Board for decision.

Concerning the merits, there is sufficient evidence to support the charge. The Carrier has a legitimate right to insist upon behavior that does not adversely affect the employer-employee relationship. In the instant case, the Carrier has found that the incident leading to this dispute and the resultant ruling of the Court severely impacted upon this relationship. Accordingly, there is no proper basis to overrule the decision by the Carrier.

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

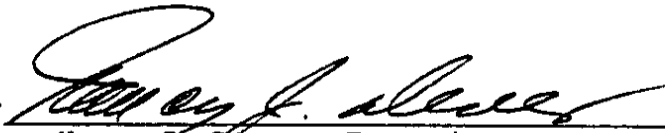
That the Agreement was not violated.

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 April, 1984

