

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25022  
Docket Number MW-24949

Eckehard Muessig, Referee

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

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

(1) The dismissal of Machine Operator W. Lewis, Jr. for alleged violation of 'Rule 801' was without just and sufficient cause and on the basis of unproven charges (System File MW-82-69/343-47-A).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, the charges leveled against him shall be cleared from his record and he shall be compensated for all wage loss suffered including overtime and trailer pay."

OPINION OF BOARD: The Claimant was removed from service on December 3, 1981, on the charge that he had been insubordinate. This charge came about because the Carrier contended that the Claimant refused a specific work instruction of one of its Foreman.

The Board is fully aware and recognizes the Organization's well-stated and forceful contentions made orally before us and in the record with respect to testimony at the investigative hearing. The Board also takes note of its view of the role and actions of the Foreman who gave the instructions that led to this dispute.

Nonetheless, the Board finds there is substantial evidence that the Claimant refused to carry out a legitimate instruction given by his Foreman. He therefore was properly found guilty of the charge. Accordingly, under these circumstances, the Board finds no basis to interfere with the Carrier's decision to dismiss the Claimant from service and the claim is denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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

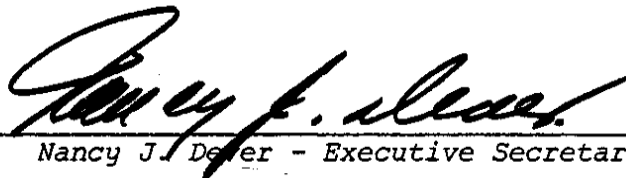
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of September 1984.

