

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25207  
Docket Number SG-24846

I. M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Burlington Northern (St. Louis-San Francisco Railway Company)

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of  
Railroad Signalmen on the former St. Louis-San Francisco  
Railway Company:

In behalf of Mr. B. J. Curry, Jr. for compensation for all time lost, including overtime, from 8:00 A.M. February 27, 1981, to 8:00 A.M., April 27, 1981; reinstatement of all employment rights, including seniority rights and vacation rights; and to remove any reference of this incident from his personal record, account Mr. Curry being unjustly held from service due to alleged violation of part of Rule 176 of the Maintenance of Way and Structures Rule book." (Carrier file: SI 81-10-20)

OPINION OF BOARD: Claimant herein, following an investigation, having been charged with insubordination, was accorded a sixty day suspension. The record indicates that the circumstances related to an instruction to Claimant to load some batteries into his supervisor's station wagon. Carrier alleges that Claimant refused repeatedly to comply with direct orders of his supervisor and only after the supervisor told him he was removed from service did he begin to load the batteries.

Petitioner insists first that Claimant was not afforded a fair hearing and furthermore that his supervisor had been harassing Claimant. Additionally, it is urged that Claimant refused to obey his supervisor's order due to safety considerations. Carrier disagrees with these contentions.

The record does not support Petitioner's contention that the hearing was not properly conducted. While the hearing officer precluded certain evidence offered with respect to past history offered by the Organization, we do not believe that constituted prejudicial error (see Award 20865). An examination of the transcript indicates that Claimant and his representatives were given an ample opportunity to mount a defense and the hearing was fairly conducted. With regard to the contention concerning harassment, the record does not support Petitioner's position that this had any bearing, if indeed true, on the issue herein.

Claimant's principle defense is that he felt the car should be moved and it was unsafe to load the batteries in the location provided by his superior. The only reference to safety was that there were several ruts to be crossed in carrying the batteries; no other evidence was presented to support the safety argument. On the contrary, there was evidence that the supervisor attempted to position the car as close to the material to be loaded as possible and could not improve upon the car's location without jeopardy to the vehicle. From the entire record, it appears that Claimant's motivation in his apparent refusal to do the job as ordered, was that the location was not as convenient as he thought it could be and was on a prior occasion. The record is quite clear in that he admitted that he refused to comply with instructions.

Insubordination is a serious offense. It is obvious that there are many degrees of severity in the infraction so characterized. In this instance the charges were supported by substantial evidence including Claimant's admissions. Under the circumstances, and based on the entire record, the discipline appears to be commensurate with the severity of the offense. The claim must be denied.

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 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

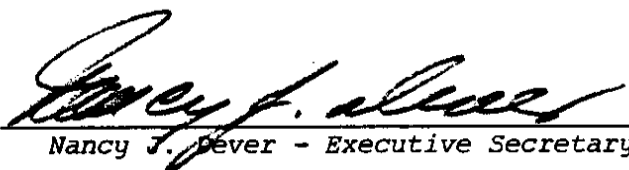
That the Agreement was not violated.

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 11th day of January 1985.

