

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25262
Docket Number MW-25276

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(The Kansas City Southern Railway Company

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

(1) The dismissal of Machine Operator H. Simmons for alleged refusal "to go to work with the rest of Extra Gang 492, and then threatened Assistant Roadmaster K. R. Mattox with bodily harm" was without just and reasonable cause and on the basis of unproven charges (Carrier's File 013.31-266).

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

OPINION OF BOARD: The claim herein, submitted to the Board by the Brotherhood of Maintenance of Way Employes, while worded slightly different, involves claim in behalf of one of the same individuals, the same Agreement, the same Rules, and arising out of the same occurrence, as involved in Award No. 25134, adopted by this Division of the National Railroad Adjustment Board on November 9, 1984, in which the claim was denied.

We do not consider it the intent of the Railway Labor Act, which has as one of its primary purposes the prompt and orderly settlement of disputes growing out of grievances or out of the interpretation or application of Agreements covering rates of pay or working conditions, that the National Railroad Adjustment Board repeatedly adjudicate the same dispute involving the same Claimant and arising out of the same occurrence, simply because the claim may be submitted to the Board through different representation.

As Claimant's dispute with the Carrier arising from his dismissal from Carrier's service for his actions on July 7, 1982, has been adjudicated by Award No. 25134, the claim herein will be dismissed. See Third Division Award Nos. 25261, 24789, 23027, and Second Division Award No. 6692.

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 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

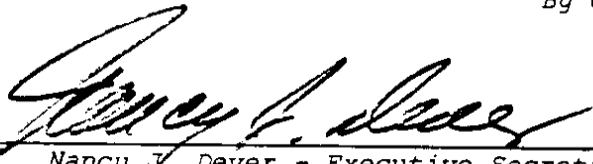
That the claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1985.