

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25412  
Docket Number MW-25373

Paul C. Carter, Referee

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

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

(1) The dismissal of Trackman M. L. Johnson for alleged insubordination and conduct unbecoming an employee was excessive and without just and reasonable cause (System File C-D-1439/MG-3609).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired and with the exception of thirty (30) days, he shall be compensated for all wage loss suffered.

OPINION OF BOARD: Prior to the occurrence giving rise to the dispute herein, Claimant, with about five months service, was assigned as a trackman with the Carrier's Southern Region Rail Force, which was working at Jenkins, Kentucky. On August 27, 1982, he was instructed to attend an investigation scheduled for 10:00 a.m., September 8, 1982:

"Arrange to attend investigation in Trainmaster's office. Shelby, Kentucky, at 10:00 a.m., Wednesday, September 8, 1982.

Investigation is to develop your responsibility in connection with conduct unbecoming an employee and insubordination when you were argumentative, quarrelsome, abusive and failed to follow Assistant Supervisor, L. L. Hall's instructions at about 7:05 a.m., on Friday, August 20, 1982.

Arrange for representation and/or witnesses if desired."

The investigation was conducted as scheduled, with Claimant present and represented. A copy of the Transcript of the investigation has been made a part of the record. From our review, the investigation was conducted in a fair and impartial manner. None of Claimant's substantive procedural rights was violated.

In the investigation substantial evidence was presented in support of the charge against Claimant. His dismissal from service was fully warranted, and there is no proper basis for the Board to interfere with the discipline imposed.

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. Dyer - Executive Secretary

Dated at Chicago, Illinois this 30th day of April 1985.