

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25705
Docket Number MW-25704

David P. Twomey, Referee

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

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

(1) The dismissal of Trackman D. W. Richmond for violation of 'Rule G' was excessive and disproportionate to the charge leveled against him (System File C-D-1450/MG-3620).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: The Claimant, Mr. D. W. Richmond, was notified by letter dated September 24, 1982 of his dismissal from the Carrier's service for violation of Rule "G" and being quarrelsome and insubordinate as follows:

"Mr. Dennis Wayne Richmond...

Dear Sir:

Referring to investigation held at 11:00 a.m., on Friday, September 10, 1982, Track Supervisor's Office, Raleigh, West Virginia.

It has been determined that you were at fault for violation of Rule 'G' and being quarrelsome and insubordinate at approximately 10:00 p.m., Friday, June 18, 1982, at Raleigh, West Virginia, and the discipline administered is dismissal from the service of the Railway Company.

Very truly yours,

/s/ J. A. Niehaus
J. A. Niehaus
Manager Engineering"

The record reveals that Mr. Richmond was afforded a fair and impartial investigation. The record also reveals that at the investigation, Mr. Richmond chose to admit his responsibility for violating Rule "G" and being quarrelsome and insubordinate on Friday evening, June 18, 1982, when he was called out to perform overtime service in connection with a derailment. Mr. Richmond requested leniency at the investigation in view of his clear record and his participation in an alcohol rehabilitation program. We are compelled to deny this Claim in view of the seriousness of the proven offense. It is the sole prerogative of Management to grant leniency; and the matter of leniency is referred back to 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

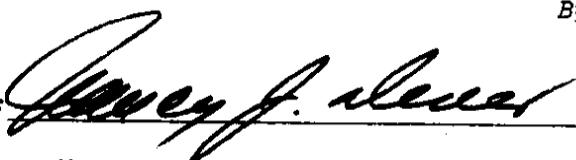
That the Agreement was not violated.

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 14th day of November 1985.

