

The Third Division consisted of the regular members and in addition Referee W. F. Euker when award was rendered.

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

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

(1) The discipline imposed upon Track Laborer C. L. Hines for alleged insubordination on November 25 and 26, 1985 was arbitrary, unreasonable and in violation of the Agreement (Carrier's File 013.31-342).

(2) The claimant shall have his record cleared of the charge leveled against him and he shall be compensated for all wage loss suffered between November 26, 1985 and February 26, 1986, excluding the time for which he received vacation pay and excluding the time during which he underwent rehabilitative therapy."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Claimant, a Track Laborer for eleven years, was charged with insubordination occurring on two successive days November 25, and November 26, 1986, for refusing direct orders from his foreman and/or arguing whether those orders should be carried out. A formal Investigation was held, following several postponements at the Organization's request, and Claimant was found guilty of the charge and given a suspension from service which coincided with the period he was out of service for rehabilitative therapy, i.e. November 27, 1985, to February 25, 1986. The Claim was handled in the usual manner on the property and is now presented for our decision.

Our review of the trial record convinces us that Claimant had a serious problem following orders without debating the wisdom or merits of each facet of the order. In truth, he appeared to harbor resentment not merely toward the Foreman but other members of his crew as well. Although it is not unusual to have disagreements between Supervisors and their subordinates as to the manner of performing a certain task, nor rare to see those disagreements disintegrate into strong vocal challenge, nevertheless in this case Claimant went beyond the limits of liberal tolerance by his strident and ceaseless arguments over work methodology, when he would have been well advised to keep his own counsel.

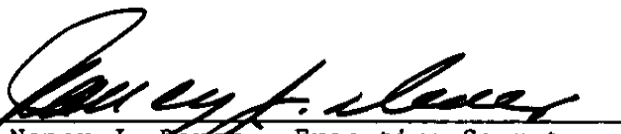
We are not persuaded that Claimant was insubordinate as much as he was argumentative, although in some cases, the two may eventually blend. The workplace is not a debating society and the token discipline administered in this case will caution the Claimant to curb his desire to challenge every order in the future.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 13th day of April 1989.