

Public Law Board No. 3794

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Seaboard System Railroad

STATEMENT
OF
CLAIM:

The dismissal of Trackman R. K. Screven for alleged insubordination and incompetency was without just and sufficient cause, on the basis of unproven charges and arbitrary.

FINDINGS:

While working as a trackman on T&S Force 5365, Claimant was assigned to install rail anchors, harden spikes and pick up scrap. After several hours of work, he stopped working and was observed sitting on the head of a crosstie; the remainder of the Force continued to attend to their work.

According to Assistant Roadmaster Guthrie's testimony, he then checked the area of claimant's responsibility and found anchors improperly positioned, one or two anchors completely left off and scrap lying in the middle of the track. The record indicates that claimant had previously been instructed on several occasions as to his responsibility in the proper performance of his work and the manner in which it should be performed.

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Mr. Guthrie testified that when he found claimant sitting on the crosstie, claimant stated that he had "caught up" on his work. His subsequent explanation that he had taken medication because of a considerable amount of dental work several days earlier was not considered persuasive by Carrier.

The proper performance of track work is essential to safety and we are satisfied that Carrier's finding that discipline is warranted in this situation should be upheld. In determining the amount of discipline to be imposed, Carrier took claimant's discipline record into account; it includes a lengthy suspension without pay for failure to follow orders (actually he was dismissed but later reinstated without pay by Third Division Award 23472).

No sound basis is perceived for substituting our judgment for that of Carrier in these circumstances.

AWARD: Claim denied.

Adopted at Jacksonville, Florida, ^{May} ~~June~~ 30, 1985.


Harold M. Weston, Chairman


Carrier Member


Employee Member