

SPECIAL BOARD OF ADJUSTMENT NO. 280

Award No. 143
Case No. 228

PARTIES St. Louis Southwestern Railway Company
TO and
DISPUTE Brotherhood of Maintenance of Way Employees

STATEMENT "Claim of the System Committee that:
OF CLAIM

1. Carrier violated the effective Agreement when Extra Gang Laborer Joe D. Johnson was dismissed without just and sufficient cause on March 3, 1977.
2. Claimant Joe D. Johnson be reinstated to his former position with pay for all time lost and with all seniority, vacation and other rights restored. Also, that his record be cleared of this charge."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant herein, an Extra Gang Laborer, was discharged after being charged with engaging in an altercation with his foreman. Subsequently, he was granted an investigative hearing and the dismissal was reaffirmed following that hearing.

A review of the transcript of the investigation in this dispute indicates that Claimant had been involved in a dispute with his foreman on the day in question and had been refusing to perform his duties as required by the foreman. After being told by the foreman that he was dismissed as a result of the insubordinate acts, Claimant attacked the foreman. He was later found by the Assistant Roadmaster to be holding the foreman down on the ground in the course of the altercation. It is clear from the testimony including Claimant's own admission that he did indeed attack the foreman. Hence, the evidence supports Carrier's determination that Claimant was guilty. Under the circumstances, therefore, and in view of the nature of the infraction, Carrier's position must be upheld. Conduct such as that engaged in by Claimant herein is intolerable and need not be

condoned. The claim must be denied.

AWARD

Claim denied.



I.M. Lieberman, Neutral Member



Carrier Member



Employee Member

October 19, 1979
Houston, Texas