

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22524
Docket Number MW-22680

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Port Terminal Railroad Association

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

(1) The dismissal of Track Laborer W. J. Eason was without just and sufficient cause and extremely disproportionate to the offense with which charged.

(2) As a consequence of the above, Track Laborer W. J. Eason shall be allowed eight (8) hours of straight-time pay for each work day and holiday falling within the period beginning September 9, 1977 and continuing until the date the claimant is reinstated to service with seniority and vacation rights unimpaired."

OPINION OF BOARD: The record shows that claimant was employed by Carrier as track laborer on May 5, 1973. He was dismissed from service for failing to protect his assignment on August 19, 1977. Hearing was requested by the Organization, and, by mutual agreement, was held on October 19, 1977.

A review of the transcript of the hearing shows substantial evidence to support the dismissal of claimant for his actions on August 19, 1977.

The record also shows that claimant had previously been dismissed in January, 1976, for failure to protect his assignment and subsequently reinstated on a leniency basis. Also, on May 9, 1977, he was assessed a five day suspension for leaving the job and failure to report. Apparently the prior discipline did not have the desired effect.

The claim will be denied.

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:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September 1979.