

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. That in violation of the current Agreement, Electrician L. Chasson of Laurel, Montana was unjustly suspended and dismissed from service of the Burlington Northern Railroad Company following an unfair investigation held October 2, 1986.

2. That the Notice of Investigation failed to provide the required advance notice of the precise charges for which Electrician Chasson stood investigation and for which he was assessed discipline.

3. That the Burlington Northern Railroad Company failed to timely respond to the claim of Employees, thereby defaulting on same.

4. That accordingly, the Burlington Northern Railroad Company be ordered to make Electrician Chasson whole by restoring him to service with seniority rights unimpaired, plus compensate him for all wages lost during the period he was withheld and dismissed from service. That all vacation, holiday, retirement, health and welfare and all other benefits he is entitled to under the Agreement and/or law which may have been lost or adversely affected be restored and that all record of the investigation be removed from his personal record.

FINDINGS:

The Second 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.

Carrier's Police Department received a tip that Claimant had in his possession, at his home, considerable numbers of Company tools and equipment. Two Special Agents visited Claimant's home and after first being denied access

to look over the premises were later given permission to search for BN property. As a number of items were uncovered, containing BN markings, Claimant, when asked, either stated that he had purchased the item at a flea market or did not know how it came into his possession. The Agents collected a number of items with a value in excess of one thousand dollars.

Claimant was subsequently notified to attend an investigation on charges of "possession and alleged theft of company material and equipment." Following the investigation he was notified that he was determined to be guilty of the charge and was dismissed from service.

We have carefully examined the transcript of the investigation and do not find it procedurally defective so as to warrant our consideration that Claimant was denied a fair and impartial hearing as contemplated by the Agreement. Also, as the matter was appealed on the Property, we do not find it to be procedurally defective.

With regard to the testimony adduced at Claimant's investigation in support of the charges we find that adequate evidence was developed to demonstrate that Claimant improperly had in his possession a considerable amount of material and equipment that belonged to Carrier. We also find that his attempted explanation as to how he came into possession of these items lacks credulity.

Proven thefts of Company property are serious breaches of conduct and permanent dismissal is not considered excessive or inappropriate. In the circumstances of this case the dismissal of Claimant will not be disturbed.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1988.