

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers
{ Consolidated Rail Corporation

Dispute: Claim of Employes:

1. That under the controlling agreement Electrician G. E. Houk was discriminated against and unjustly suspended and dismissed from service of the Consolidated Rail Corporation on October 3 and November 30, 1978 respectively.
2. That accordingly, the Consolidated Rail Corporation (Conrail) be ordered to restore Electrician G. E. Houk to service with all seniority rights unimpaired, vacation rights and all other benefits that are a condition of employment, unimpaired and compensated for all lost time during the time held out of service.

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 employe 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.

Electrician Gerald E. Houk, claimant, was employed at the Selkirk, N.Y., Diesel Terminal. On October 3, 1978, he was charged with the forgery and misuse of meal tickets and held out of service pending a trial. The trial took place on November 17, 1978, and claimant was dismissed from service on November 30, 1978. A review of the stenographic record of that trial reveals that claimant was afforded all substantive and procedural rights and that he was given a full and fair hearing.

The record clearly indicates that claimant, by his own admission, was guilty of both theft and forgery. These actions by themselves are grounds for discipline, up to and including dismissal from service. In light of claimant's past work record, which includes theft and reinstatement on a leniency basis, the penalty in the instant case is appropriate.

The organization's reference to the leniency afforded others involved in the same crime has no bearing on this case. This Board finds nothing arbitrary, capricious or discriminatory in the penalty meted out to claimant, since it is well understood in this industry that theft from carrier is grounds for discharge.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 30th day of September, 1981.