

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

(Grady Lee Tory
PARTIES TO DISPUTE: (
(Southern Railway Company

STATEMENT OF CLAIM:

1. That Norfolk Southern Railway Company improperly and unjustly dismissed Grady Lee Tory, a laborer at Chattanooga, Tennessee on July 28, 1986.

2. That accordingly, Grady Lee Tory be restored to his assignment at Chattanooga, Tennessee with all seniority rights unimpaired, vacation, health and welfare benefits, hospital, life and dental insurance premiums paid; and that he be compensated for all lost time plus ten percent interest payable from July 28, 1986 to the date of disposition. Further, Mr. Tory demands contractual back pay owed from 1984 to 1986.

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 were given due notice of hearing thereon.

The record shows that on July 2, 1986, the Claimant, then employed as General Shop Laborer at Carrier's System Assembly Shop, Chattanooga, Tennessee, entered a plea of guilty in U. S. District Court for the Eastern District of Tennessee to two counts of a fourteen-count indictment charging violation of Title 29 U.S.C. (United States Code), Sections 501 (c) and 439 (c). The record shows that while serving as Financial Secretary-Treasurer of Local 711 of the International Brotherhood of Firemen and Oilers, the Claimant mis-handled funds for the Organization by willfully and unlawfully converting funds to his own use.

A preliminary investigation was conducted by Carrier's Assembly Shop Assistant Superintendent on July 28, 1986, at the conclusion of which Claimant was dismissed from Carrier's service. The Claimant requested a formal investigation, which was conducted on August 5, 1986. Following the formal investigation, Claimant's dismissal was affirmed on August 11, 1986.

A transcript of the formal investigation conducted on August 5, 1986, has been made a part of the record. We have reviewed the transcript and find that none of Claimant's Agreement rights was violated. A major offense was involved, and there was no violation of Rule 34(c) of the Agreement.

There was substantial evidence in the investigation that Claimant had pled guilty to two counts of a fourteen-count indictment, verified by court records introduced in the investigation.

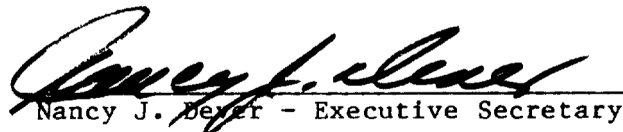
Claimant was clearly guilty of dishonesty, which justified his dismissal from Carrier's service. It is a generally accepted tenet in the railroad industry that dishonesty is a dismissal offense. (Second Division Award 11124.) The Board finds no justification for interfering with the discipline imposed.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1989.