

The Second Division consisted of the regular members and in addition Referee Ronald L. Miller 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 R. D. Craig of Alliance, Nebraska was unjustly dismissed from Carrier service following an investigation held on March 30, 1987.

2. That accordingly, the Carrier be ordered to reinstate Electrician Craig; compensate him for all wages lost beginning Friday, March 19, 1987, and continuing until adjusted; that he receive all lost vacation time, holidays, sick pay and/or hospitalization benefits to which he may be entitled under schedules, agreements, rules or law; and that all reference to the disciplinary hearing be removed from his personal file.

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.

On March 19, 1987, a Special Agent of the Carrier's Security Department and a local police officer went to Claimant's home concerning a matter involving his car. In the course of that investigation, the Special Agent found three (3) Burlington Northern switch lanterns in Claimant's house. Claimant did not have permission from the Carrier to be in possession of the lanterns.

The Special Agent contends that on March 19, 1987, Claimant admitted removing the lanterns from the lunchroom at the Diesel Servicing Pit. However, during the subsequent Investigative Hearing on the charges against him, Claimant testified that he did not remove the lanterns from Carrier property. Rather, Claimant contends that he found the lanterns in his home, and that they were probably left by persons who came to his house to make recordings.

It is not the function of this Board to resolve conflicts in testimony. Numerous Boards have held that it is the role of the Hearing Officer to weigh the evidence and to make final judgements as to credibility of witnesses (Second Division Award 9282, Third Division Award 25408, and Fourth Division Award 4520). After a careful reading of the record, we find that Claimant was provided a fair and impartial Hearing, and that the Hearing Officer did not abuse his discretion nor was the Hearing Officer arbitrary or capricious in fulfilling his duties.

Given the seriousness of Claimant's misconduct, we find no basis in the record of this case to modify the imposed discipline.

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 26th day of April 1989.