

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13225
Docket No. 13072
98-2-95-2-95

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

(Sheet Metal Workers' International Association
PARTIES TO DISPUTE: (
(The Union Pacific Railroad Company

STATEMENT OF CLAIM:

- "1. The Carrier violated the provisions of the current and controlling agreement, and in particular Rule 37 of said agreement, when they improperly dismissed Sheet Metal Worker, Randall Bryant on June 30, 1994. For violation of Rules 1.3.1., 1.6, 1.9, 1.19, and 1.25.
2. That accordingly, the Carrier be required to return Mr. Bryant to service with compensation for all time lost and that he be made whole for all benefits, such as, but not limited to, vacations, holiday, seniority, medical and dental benefits and any other fringe benefit he may have been deprived of due to his improper dismissal from the service of the Carrier."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 Claimant was subject to an investigative Hearing concerning a charge of appropriating Carrier property. Following the Hearing, the Claimant was dismissed from service.

The evidence is overwhelmingly convincing that the Claimant had in his possession a large variety of items belonging to the Carrier. His explanations as to his possession of these items were contradictory and unconvincing.

There was discussion during the Hearing concerning the Carrier's policy of permitting employees to borrow tools, etc. for personal use, but only when there is a written sign-out for the items and on condition they be returned overnight or at least promptly. The Organization relies on this procedure, and the Claimant apparently did sign out for certain items. This, however, provides no basis for the Claimant's possession of many items for which there is no record of any sign-out, nor is there any basis for his retention of items for an extended period in instances where he did, or claimed he did, follow the sign-out procedure.

These actions mark the Claimant as unacceptable for continued employment with the Carrier and fully justify his dismissal.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 30th day of March 1998.