

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

Parties to Dispute: (System Federation No. 105, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Boilermakers)
(Union Pacific Railroad Company

Dispute: Claim of Employees:

That the Union Pacific Railroad Company, hereinafter referred to as Carrier, dealt unjustly and unfairly with former Boilermaker Helper, Dana J. Carman, Sr., when suspending him from service on August 17, 1977 and subsequently dismissed him from service August 29, 1977.

That accordingly, the Carrier make Dana J. Carman, Sr., whole by:

(1) Restoring him to Carrier's service with seniority rights, vacation rights, holidays, sick leave benefits and all other benefits that are a condition of employment unimpaired, and compensation for all lost time, plus 6% annual interest on all such lost wages. Also reimbursement for all losses sustained on account of loss of coverage under Health and Welfare and Life Insurance Agreements 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 employees 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.

Claimant was suspended from service on August 17, 1977. After a hearing, he was dismissed from service on August 29, 1977, for stealing and selling for his own personal gain an impact tool. Claimant's wife called Carrier to report that Claimant and another employee had stolen some drills from Carrier. Her call was made in an attempt to harm Claimant as a result of a domestic problem.

As a result of this call, two Carrier special agents called Claimant in for a discussion. During this discussion, it was not brought out that Claimant had stolen drills, but he did readily admit to having stolen and sold the impact tool. This tool was stolen and sold by Claimant more than one year prior to the meeting with the special agents. This Board has consistently stated in awards that stealing from Carriers, regardless of the value of the property stolen, is grounds for discharge. We have been reluctant to substitute our judgment for the judgment of the Carrier in such cases and have avoided reinstating discharged employees who have been found guilty of theft. We have, however, on some occasions reversed a Carrier's actions if we thought the discipline imposed was arbitrary or capricious, or the discipline had by the time of our deliberations served its purpose.

In the instant case, we think the discipline imposed to date has served its purpose. Claimant readily admitted to the theft. Had he denied it, Carrier may not have brought charges against him. Claimant's expression of honesty under the circumstances are sufficiently impressive to persuade this Board that he should have one last chance to return to employment and become a productive and exemplary employee. Claimant must be made aware that if he is involved in any further incidents of theft of property or time, his discharge would be imminent. This Board would doubtless deny a further chance to return to work.

A W A R D

Claimant is returned to service without any back wages or payment for lost benefits.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 29th day of August, 1979.