

The Board finds no basis on which to question the Carrier's judgment that the Claimant was attempting improper and forcible entry into the diner kitchen, as directly observed by a Carrier Police Officer. Claimant's explanation of the justification for his presence at the door is not credible. Although a later court trial resulted in acquittal of the Claimant, it is well established that such court actions -- whether favorable or unfavorable to the defendant -- do not necessarily control or limit disciplinary investigation and penalty by the employer.

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Award No. 8241
Docket No. 8196
2-WT-CM-'80

The charges, as proved to the Carrier's satisfaction from the investigative hearing, warrant a penalty of dismissal.

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 16th day of January 1980.