

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

Parties to Dispute: { Brotherhood of Railway Carmen of the United States and Canada

{ Grand Trunk Western Railroad Company

Dispute: Claim of Employees:

1. That the Grand Trunk Western Railroad Company violated the controlling agreement when Carman Clifford Buck was improperly discharged from service on January 5, 1979 as a result of investigation held on January 3, 1979.
2. That accordingly, Grand Trunk Western Railroad Company be ordered to restore Carman Clifford Buck to service with seniority rights, vacation rights, and all other benefits that are a condition of employment unimpaired, with compensation for all time lost from January 5, 1979 plus reimbursement for all losses sustained account of loss of coverage under Health and Welfare and Life Insurance Agreements during 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 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 waived right of appearance at hearing thereon.

After being subject to an investigative hearing, Claimant was dismissed from service because of his attempted theft of two pieces of metal pipe, each six to seven feet in length, and a metal ladder from the Carrier's property. Claimant freely admitted that he had loaded the pipe in his private vehicle and was in the processing of loading the ladder. He was discovered by a Carrier representative before leaving the property.

Rule 11 (c) of the General Rules reads as follows:

"The unauthorized possession of, removal or disposal of, any material from company property or property served by the company is prohibited."

As pointed out by the Organization, the Claimant stated that he did not realize that he was doing wrong. The value of the material was relatively small. The Carrier, however, is on firm ground on enforcing rules against theft, and there is no good reason to believe that the Claimant was unaware of his responsibilities. Dismissal from service is a recognized penalty for this type of offense, and the Board finds no basis to interfere with the Carrier's judgment in this instance.

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 - Administrative Assistant

Dated at Chicago, Illinois, this 1st day of October, 1980.