

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

Parties to Dispute: ( International Brotherhood of Boilermakers, Iron Ship  
Builders, Blacksmiths, Forgers and Helpers  
( Consolidated Rail Corporation

Dispute: Claim of Employes:

1. That under the Current Agreement Blacksmith D. M. Savino was unjustly removed from service of the Consolidated Rail Corporation beginning with August 18, 1978 and subsequently dismissed from all services of the Consolidated Rail Corporation effective September 29, 1978.
2. That accordingly, the Consolidated Rail Corporation be ordered to restore Blacksmith D. M. Savino to the service and pay him for all time lost from August 18, 1978 until he is returned to service, including vacations, health and welfare benefits and any other benefits due him under the provisions of the Current Working Agreement.

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 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, D. M. Savino, a welder at carrier's Juniata locomotive shops, was charged by carrier with the theft of railroad cross ties. A hearing was held into the matter and at its conclusion, claimant was discharged from service. Carrier argued that claimant took full-length new and used cross ties from Conrail property when he had permission to remove butts only. It also argued claimant used a release form that had expired to justify his action.

Claimant argued that he only took what he thought to be scrap and that he had never stolen from the railroad.

The record of this case clearly indicates that claimant did remove full-length new ties and reclaimed ties from carrier's property without proper authority. This board has carefully reviewed the record of this case and can find no facts that can mitigate against a finding that claimant is guilty, as charged by carrier.

It has been the policy of this board to support carrier when discipline is administered for proven theft. Dismissal is the accepted penalty for theft in the railroad industry. The reasons for it need not be restated by this board.

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 25th day of February, 1981.