

The Second Division consisted of the regular members and in addition Referee Ida Klaus when Award was rendered.

(International Brotherhood of Firemen and Oilers
(System Council No. 15 - AFL-CIO

Parties to Dispute: (
(Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

Dispute: Claim of Employees:

1. That in violation of the current Agreement, Laborer David N. Burant, Stationary Engineer, Milwaukee, Wisconsin, was unfairly dismissed from service of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company effective March 25, 1981.

2. That accordingly, the Carrier be ordered to make Mr. Burant whole by restoring him to service with seniority rights, vacation rights, and all other benefits that are a condition of employment, unimpaired, with compensation for all lost time plus 6% annual interest; with reimbursement of all losses sustained account loss of coverage under Health and Welfare and Life Insurance Agreements during the time held out of service; and the mark removed from his record.

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 employes 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.

The Claimant, a Stationary Fireman, was dismissed following a hearing, on charges of misuse of a Company credit card.

It is undisputed that, as reported by Carrier police, the Claimant on February 28, 1982, used a Company credit card for the purchase of a tankful of gas for his own automobile and for an additional small amount pumped into a gasoline can. The total transaction amounted to \$21.40. The Claimant entered the license number of a Company car on the purchase receipt.

The Claimant denies that he misused the credit card. He asserts that, as his recital of the facts will show, he had no intention of defrauding the Carrier. He decided to use his personal car after the Company vehicle needed for his work would not start. His personal car was out of gas, however; and he had no money and was unable to borrow any. He then decided to use the Company credit card in order to place in his car the gas necessary for the job.

The Claimant sought to justify various aspects of his conduct. He had the general permission of a Supervisor to use his own car while on duty. Although he had no specific authority to use the Company credit card for his personal car, he nevertheless had discretion to make such a decision on his own on weekends, when no Supervisor was present. Finally, he stressed that when he came to work on March 3 he told his Supervisor about the purchase and offered a check for the full amount.

Upon careful analysis of the entire record, the Board finds substantial evidence to support the charge of misuse of a Company credit card.

We find Claimant's justification for using the credit card to be unconvincing. The Claimant may have had some sort of general permission to use his personal car for his work. He has not shown, however, that he was authorized to charge the gas for his car to the Company credit card. His claimed discretion to do so on his own is simply not established. More significantly, he has failed to give an acceptable explanation for other pertinent aspects of his unusual conduct. Although he had never before used a Company credit card in that way, he said nothing to any of the Supervisors on duty before or after making the purchase.

He did not explain at all why he bought an excessive amount of gas for the limited requirements of his work and why he gave a company license number. Finally, he gave no satisfactory reason for not disclosing the transaction on offering reimbursement until the day the notice of investigation was issued.

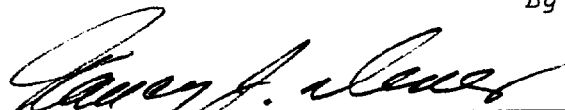
It reasonably follows that the Claimant has failed to rebut the Company's case against him. He has committed the serious offense of using the Carrier's credit card for an unauthorized purpose and for apparent personal gain. We cannot find extenuating circumstances in his prior clean record or his belated offer of restitution.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of January 1985.