

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 21489
Docket Number SG-21110

Frederick R. Blackwell, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Robert W. **Blanchette**, Richard C. Bond **and** John H.
(**McArthur**, Trustees of the Property of
(**Penn** Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the General **Committee** of the Brotherhood of.
Railroad Signalmen **on** the **Penn** Central Transportation
Company (former New York Central Railroad Company-Lines West of Buffalo),

System Docket W-59

Southern Region - Cincinnati Division Case S-13-74

Appeal **on** behalf of G. T. **Siler** from
discipline of dismissal.

OPINION OF BOARD: The Claimant was discharged-on June 25, 1974 following
a June 21, 1974 hearing and findings of guilt **on** the
following written charges:

1. Absent from duty without permission at approximately
2:15 a.m. **on June** 14, 1974.
2. Unauthorized operation of company vehicle while **on**
duty, **June** 14, 1974.
3. Leaving the duties of your assignment as signal main-
tainer unprotected at approximately **2:15** a.m. **June** 14,
1974.

The Claimant has acknowledged guilt of the charges, as is evidenced
by the following extract from his hearing testimony:

"Q. At what location did you report for this **assignment?**

A. Sharon Yards, Sharowille, Ohio.

Q. What were the assigned hours of **this** assignment?

A. **11:30** p.m. to **7:30** a.m.

Q. Did you complete your assignment?

A, **No.**

Q. Would you please **state** for the record why you failed to
complete your assignment?

A. I was arrested **in** Green Hills.

- Q. At approximately what time were you arrested?
A. About **2:15** a.m.
- Q. Is Green Hills part of your assigned territory?
A. No.
- Q. At the time of your arrest were you in possession of a company vehicle?
A. Yes.
- Q. Were you also in possession of a company radio?
A. Yes.
- Q. Did you return to duty at any time between **2:15** a.m. and **7:30** a.m.?
A. No."

The foregoing testimony of the Claimant establishes beyond question that he was guilty of two offenses, leaving his duty station without permission and operating a company vehicle in an unauthorized manner. Each of these offenses is serious in nature and when **committed in** combination, it cannot be said under prior Board Awards that the penalty of permanent dismissal is excessive discipline. The Carrier's discipline will therefore not be modified.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the **parties waived** oral hearing;

That the Carrier and the **Employee** involved in this dispute are respectively Carrier and **Employee** within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein, and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this **15th** day of April 1977.