

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

'Award Number 22736  
Docket Number W-23084

**PARTIES TO DISPUTE:** {  
(Herbert Murray  
(Consolidated Rail Corporation

**STATEMENT OF CLAIM:** "This is to serve notice, as required by the rules of the National Adjustment Board, of my intention to file an exparte submission on August 5, 1979 covering an unadjusted dispute between Herbert Murray and the Consolidated Rail Corporation involving the question of Herbert Murray's dismissal from company service on June 30, 1977 for 'misuse of company credit card' by purchasing gas for his personal vehicle on June 3, 1977 (Claim No. 340 System Docket). It is Herbert Murray's contention that the weight of the evidence did not sustain Consolidated Rail Corporation's allegation and that Herbert Murray was denied a fair and impartial trial which constituted a violation of 5-E-1 of the Contract.

"Request is hereby made to reinstate Herbert Murray to his job retroactive with full pay and all other incurred benefits."

**OPINION OF BOARD:** Claimant, Herbert Murray, comes to this Board with Statement of Claim, as above quoted, seeking reinstatement to his position with full pay and all other incurred benefits under the Parties' Agreement.

Public Law Board No. 2203, Award No. 45, between the Parties, had before it as Case No. 45 (Claim No. 340 System Docket), a claim which reads:

"(a) The Carrier violated the Rules Agreement, effective December 16, 1945, as amended, particularly Rules 5-A-1 and 5-E-1, when it assessed discipline of dismissal on Truck Driver, H. L. Murray, Central Region, Pittsburgh, Pennsylvania, on June 6, 1977.

"(b) Claimant Murray's record be cleared of the charge brought against him on June 6, 1977.

"(c) Claimant Murray be restored to service with Seniority and all other rights unimpaired and be compensated for wage loss sustained in accordance with the provisions of Rule 6-A-1(d), with restoration of benefits."

It is clear that the question brought to this Doard, by Claimant here, has been heard and disposed of by Award Ro. **45**, Public **Law Board** go. **2203**, which stated that:

"We would not substitute our judgment for that of Carrier in this matter if the record was free **from** doubt. **However**, there is s&e question as to whether claimant **really** intended to defraud Carrier. He **appears** to **have** never concealed the fact that the gas was **purchased** for his own **automobile**. While the charge against him is 'Misuse of **company** credit card,' he **never** had a credit card issued to **him** or in his possession; ve are **mindful**, **however**, that he used the credit **system** to obtain the gasoline.

"In the **light** of all the **circumstances** of this case, we will reduce the discipline to a lengthy suspension without **pay**. The loss of **compensation** involved will **emphasize** to **employees** that their conduct insofar as charging purchases to Carrier is involved must be beyond reproach.

"No **prejudicial** procedural error has been **committed** by Carrier **and claimant** was accorded all rights of **due** process.

AWARD: Claimant to be reinstated without back pay.  
Award to be effective within 30 days."

In order to prevent chaos and multiplicity of appeals, the instant **claim** will be dismissed for the reason that the issue involved concerning **claim** here has been determined by Public **Law** Doard **No. 2203**, which is a **tribunal** of coordinate jurisdiction with this Division and whose decisions are, **likewise**, **final and** binding under the **Railway** Labor Act. **This claim now being moot is** dismissed for lack of jurisdiction by this Division.

**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 **Employees** involved in this dispute are respectively Carrier **and Employees** within the meaning of the **Railway** Labor Act, as approved & me **21, 1934**; and

That **this** Division lacks jurisdiction of the claim.

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claim ~~dismissed~~.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: \_\_\_\_\_

*A.W. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1980.