

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23506
Docket Number MW-2387

Paul C. Carter, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
Milwaukee-Kansas City Southern Joint Agency

STATEMENT OF CLAIM: "Claim of tie System Committee of the Brotherhood that:

(1) The dismissal Of **Trackman** Kenneth Fox for alleged theft was without just and sufficient cause and on the basis of unproven charges (**Carrier's** File 013.31-220).

(2) **Trackman** Kenneth Fox shall be reinstated with seniority and all other **rights** unimpaired and he shall be compensated for all wage loss **suffered.**"

OPINION OF BOARD: Tho record **shows** that claimant entered Carrier's service as a track **laborer** on November 8, 1978. On December 10, 1979, he was notified:

"You are instructed to **report** to the office of the General Superintendent at 0900 December 13, 1979, for formal investigation to determine the facts and your **responsibility in** connection with your allegedly stealing some money from another employees locker at the roundhouse at or about 1600 August 24, 1973.

Arrange for representative, if desired, in accordance with **current** M of Way **agreements.**

You must acknowledge **receipt** of this notice by signing the attached copy and returning it promptly to this office."

The investigation was **postponed** and held January 18, 1980, following which claimant was dismissed **from** the service. A copy of the transcript of the investigation has been made a **part** of the record. In the investigation It was shown that claimant was convicted in court, fined \$100.00, and thirty days suspended sentence.

Based upon the entire record, the Board finds no proper basis for disturbing the discipline imposed **by** the Carrier.

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 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 I I D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulson

Executive Secretary

Dated at Chicago, Illinois, this 29th day of January 1982.

