

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23992  
Docket Number SG-23852

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(Burlington Northern Railroad Company

STATEMENT OF CLAIM: "Claim of the General **Committee** of the Brotherhood of Railroad Signalmen on the **Burlington Northern:**

On behalf of **Mr. T. F. Spalla**, **former** Signalman, Crew **#135**, who was dismissed as a result of formal investigation held on December **13, 1979**, at **Ottumwa, Iowa.**" (General **Chairman** file: **C-80-218**. Carrier file: **SI-20 5/20/80**)

OPINION OF BOARD: Claimant, T. F. Spalla, A Signalman with some **19** years service with the Carrier was served a notice of investigation "to ascertain the facts and determine your responsibility in connection with theft and selling of BN property...". An investigation was held on December **13, 1979** and Claimant was dismissed from service on **January 11, 1980**. The Organization seeks reinstatement of Claimant to his position as Signalman.

A review of the record before the Board amply establishes through the testimony of the Special Agent, and Claimant's testimony and written statement that Claimant did take and sell some \$500.00 worth of wire belonging to the Carrier. It is urged, however, that the penalty of dismissal was too harsh. Claimant, as a veteran employe, was aware that the Rules make dishonesty a dismissable offense. That Claimant **made** restitution after discovery by the Carrier of his involvement in the missing materials does not gainsay the clear impropriety of his **preceeding** actions. As Referee **Yagoda** observed **in** Third Division Award **22119**:

"While we are not unmindful of the serious and final nature of discipline by dismissal neither can we forget that dishonesty in all of its shapes and sizes is a serious **, matter** which, when proven, this Board has repeatedly held to-be sufficient cause for dismissal."

In view of the seriousness of Claimant's actions the penalty of **dismissal** was not unreasonable.

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 Employes involved in this dispute are respectively Carrier and Employes **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: Acting Executive Secretary  
National Railroad Adjustment Board

By *Rosemarie Brasch*  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 17th day of September 1982.

