

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24299
Docket Number MW-24206

John B. LaRocco, Referee

PARTIES TO DISPUTE: { **Brotherhood of Maintenance of Way Employees**
 {
 (Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: "Claim of the System **Committee** of the Brotharhood that:

(1) The **dismissal** of Welder Jerry Goldman and Welder **Helper Gerald Wynn** for alleged 'misuse of a **company** owned gasoline credit card **which** was used to purchase **gasoline** for a personal vehicle **on** Friday, November 30, 1979' was unwarranted, **without just and** sufficient cause, on the basis of **unproven** charges and **in** violation of the Agreement (**System** Files **IND-728/2-MG-2737** and m-727/2-x-2738).

(2) **The claimants** shall now be allowed the benefits prescribed **in** Agreement Rule **48(e).**"

OPINION OF BOARD: **On** November 30, 1979 Claimants used a **company** credit card to purchase gasoline for Claimant **Wynn's** personal **automobile** at **Tuscola, Illinois**. Both Claimants declared that the gasoline purchase was an accepted method for **reimbursing Claimant Wynn** who had supposedly **utilized** his **own** car to conduct **company** business. The Track Supervisor testified that all **employees** had been **instructed** to submit an expense **account** form if and when **any employee** was authorized to use his private **automobile** for a **company purpose**. After an investigation held on January 17, 1980, the **Carrier** dismissed Claimants from service for **misuse** of the **company** credit card.

The **Organization** argues that Claimants were merely following an alleged past practice. At various times in the past, **the** **Carrier** had **purportedly** permitted **employees** to buy gasoline for their personal autos on a **company** issued **credit** card. Also, the **Organization** asserts that even if Claimants **committed** the offense, dismissal was an excessive and arbitrary penalty. **The Carrier contends** that Claimants attempted to deceive **the** **Carrier** by using the **credit** card, without authority, to purchase gasoline for a private automobile.

In this case, Claimants purchased gas for Claimant **Wynn's** car on the **company** credit card. Both Claimants **knew** the credit card was to be used only to buy **fuel** for **company** vehicles. **In** addition, there is little or no evidence that Claimant **Wynn** bad, in the recent past, **actually** used his auto for **company** business.

The record before this Board clearly reflects that, during the present Track Supervisor's tenure, **employees** were reimbursed for any **out** of pocket expenses after they had submitted the appropriate **expense account** forms. Instead of filing the appropriate expense account voucher, **Claimants** intentionally and dishonestly engaged in a gross misuse of a **company** credit card.

Dishonesty is a serious offense which warrants a severe penalty. Third Division Awards No. 13130 (Kornblum) and No. 23204 (Dennis). Since both Claimants were willing and active participants in the dishonest act, we must uphold the discipline assessed against each of them.

Inasmuch as we are denying this claim on its merits, we need not address the Carrier's contention that the claim submitted to this Board was substantially different from the claim handled on the property.

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 R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Ros-ie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of April 1983.

