

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24651
Docket Number MW-24707

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**
(
(Consolidated Rail Corporation
((former Lehigh Valley Railroad Company)

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

(1) The dismissal of **Trackman** G. D. Bostwick for stealing five (5) gallons of gasoline from Conrail Vehicle x-1035 on October 26, 1979 was excessive and disproportionate to such an offense (System **Docket** LV 186).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: The Claimant, G. D. Bostwick, is a **Trackman** who entered the Carrier's service on June 3, 1968. On November 9, 1979, he was dismissed from the Carrier's service for stealing five (5) gallons of gasoline. The Organization protests the dismissal on the grounds the Claimant obtained the gasoline for a legitimate purpose, and he did not "**steal**" any gasoline.

Examination of the record discloses sufficient evidence was adduced at the hearing to support the Carrier's findings. The Claimant, a long service employee, had a clean disciplinary record for eleven (11) years prior to his dismissal. He has been out of service four years. Considering these factors, the Board believes this lengthy period of time out of service without compensation will effectively drive home to the Claimant the lesson **that** dishonesty, no matter how slight, cannot be condoned and is a dismissable offense. We are confident this long service employee fully understands this principle and that the tenure of his reinstatement depends entirely upon his future compliance with all rules and regulations. Accordingly, Claimant be reinstated with seniority unimpaired, but without compensation for time out of service.

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 **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 discipline was excessive.

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Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: _____

Nancy J. Dever

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of January, 1984

