

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25192
Docket Number **SG-25367**

Paul C. Carter, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(Consolidated Rail Corporation

STATEMENT OF CLAIM: Claim of the General Committee ~~of the~~ Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation.

Dismissal of Signalman Ronald C. Smith for alleged insubordination was excessive and Carrier's decision should be reversed. [Carrier File No. **SD-2011-D** Eastern Region]

OPINION OF BOARD: The record shows that Claimant, a Signalman, had been in Carrier's service about four years. On November 30, 1982, he was notified to attend a trial in connection with the charge:

"Insubordination, disregarding direct orders from Assist. Supervisor C&S, J. P. **McGettigan**, not to take personal vehicle to job site, November 17, 1982."

The trial was held as scheduled on December 6, 1982. Claimant was present and represented. A copy of the transcript of the trial has been made a part of the record. A review of the transcript shows that the trial was conducted in a fair and impartial manner. None of Claimant's substantive procedural rights was violated. On December 21, 1982, Claimant was notified of his dismissal from Carrier's service.

In the trial there ~~was~~ substantial evidence, including Claimant's statement, that Claimant asked his **Supervisor** for permission to drive his personal vehicle to the job site.', The request was denied by the Supervisor. Notwithstanding the denial of his request by the Supervisor, Claimant did drive his personal vehicle to the job site, in violation ~~of the~~ specific instructions of the Supervisor. It was also brought out in the trial that Claimant had ridden in the Company truck between October 2, 1982, and the involved date of November 17, 1982, with five other people, without objection as to safety.

It was also established in the trial that the Company truck was a licensed six-passenger vehicle, and inspection showed that it was equipped with six **usable** seat belts.

After reviewing all the facts of record, we are convinced that **Claimant** willingly engaged in unjustified insubordination on November 17, 1982. **An** employe who knowingly disobeys instructions from an authorized Supervisor, exposes himself to disciplinary action, unless a real safety hazard is involved. In case an employe contends that a safety hazard is involved, the burden is upon the employe to prove that such safety hazard actually exists. There was no such proof by the Claimant in the present case.

Insubordination is considered a major offense in the railroad industry, usually resulting in dismissal. There is no proper basis for the Board to **intereferere** with 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 R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1985.

