

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25805
Docket Number CL-26086

Paul C. Carter, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees

PARTIES TO DISPUTE:(

(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-9970) that:

1. Carrier violated the terms and provisions of the current Clerks' Agreement, particularly Rule 21, when on date of February 2, 1984, Carrier issued Discipline Notice #3827 to M. J. Becker, incumbent of Position #103, Assistant Chief Yard Clerk, East St. Paul, Minnesota, dismissing him from the service of the Carrier effective January 25, 1984, after investigation which was held on January 30, 1984, and

2. Carrier shall now be required to return M. J. Becker to its service with payment for all benefits and time lost commencing January 25, 1984.

OPINION OF BOARD: Claimant, with about four and one-half years of service, was employed by the Carrier as a Clerk at Western Avenue, East St. Paul, Minnesota. On January 25, 1984, he was instructed to appear for formal investigation on January 30, 1984, on the charge:

"Your responsibility for your unauthorized possession of Company property, Universal Infrared Heater (Model #241R, Serial #68190) on January 24, 1984."

Also, on the same day Claimant was notified that he was removed from service pending the results of the investigation.

The investigation was conducted as scheduled. Claimant was present throughout the investigation and was represented by two Local Chairmen of the Organization. A copy of the Transcript of the investigation has been made a part of the record. We have reviewed the Transcript and find that the investigation was conducted in a fair and impartial manner. None of Claimant's substantive procedural rights was violated.

In the investigation substantial evidence was adduced, including Claimant's own statement, that Claimant had removed the heater involved from Company property and that he did not have permission to do so.

The Yardmaster testified that Claimant had discussed with him, on January 20, 1984, the problem he was having with frozen pipes in his mobile home, and mentioned that the propane heater in the yard office may be of help in thawing the pipes and that he (the Yardmaster) told Claimant to be sure that he obtained permission to remove the heater from Company property.

The Agent in charge testified that on Monday, January 23, 1984, he became aware that the heater, normally used to keep the Western Avenue Yard Office warm, was missing; that after some checking he notified the Special Agents' Department that the heater was missing.

The Special Agents testified that on January 24, 1984, they found the heater in Claimant's car, which was parked in front of his residence.

Claimant admitted in the investigation that he had removed the heater from Company property, and that he did not obtain permission to do so. He stated that he took the heater at the end of his assignment on January 22, 1984, without receiving permission from proper authority to do so; that he had not actually used the heater and intended to return it on Monday morning (January 23, 1984), but because of other errands he "never got the chance to run it back out to Western Avenue."

Improper removal of Company property without authority or permission is just cause for dismissal. Claimant was clearly guilty of the charge against him. We also note that Claimant's prior record was far from satisfactory. There is no proper basis for interfering with the discipline imposed.

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 12th day of December 1985.