

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25843  
Docket Number MW-26113

John W. Gaines, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(National Railroad Passenger Corporation

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

"(1) The dismissal of Welder Foreman G. O. Gaylord for alleged violation of Rule 'I' was without just and sufficient cause and on the basis of unproven charges (System File NEC-BMWE-SD-630-D).

(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: Claimant was in the employ of Carrier as Welding Foreman, having entered Carrier's service on May 19, 1976. He was dismissed from service by letter dated June 3, 1983, following a hearing on May 19, 1983, to determine his implication in regard to the charge specification:

" . . . fraudulent credit purchases at the T. G. Mallot AMOCO Station, 731 Philadelphia Road, Aberdeen, Maryland, utilizing an AMTRAK issued AMOCO credit card. One such incident occurred on March 23, 1983, between 7:00 AM and 9:00 AM, in which you pumped 20.8 gallons of gas valued at \$21.90 into a 1978 Chrysler with Maryland License AKF 788, which is registered in your name, using AMOCO credit card 4801-0015 to imprint the ticket. On April 14, 1983, you pumped 13.3 gallons of gas valued at \$14.95 into the same vehicle utilizing AMOCO credit card 4801-0011 to imprint the charge slip."

The Hearing Officer heard the testimony of Carrier's witnesses consisting of a gas station attendant employed at AMOCO and a Sergeant of Carrier's police force who was the investigating officer and chief witness. There was substantial evidence presented linking Claimant and his private white Cordoba Chrysler vehicle to the gasoline credit charges. The Hearing Officer found these charges, auto, and Claimant linked despite Claimant's denials. Under the fact situation as it developed here we are accepting his determination of Claimant's guilt of these acts of dishonesty, which are extremely serious offenses involving misplaced trust. Having this nature, they indeed warrant punishment.

It is within Carrier's discretion to consider the penalty. Carrier assesses dismissal as the appropriate discipline. We concur. In our Award 19486, we stated:

"This Board has taken the position that Carriers are not required to retain employees who are dishonest or bring discredit to the Carrier in their service."

The manner of conducting the hearing and other handling on the property impresses us as fair, impartial, and free from abuse of discretion and arbitrariness.

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 13th day of January 1986.

