

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25845
Docket Number MW-26122

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 Truck Driver T. L. Clark for alleged violation of Rule 'I' was excessive and unwarranted (System File NEC-BMWE-SD-63ID).

(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 entered Carrier's service on May 19, 1976, and was working as Truck Driver at the time of dismissal from service. His dismissal was in accordance with Carrier's letter dated June 3, 1983, based on a hearing held May 19, 1983, on the charge against him specified as:

" . . . 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 April 3, 1983, at 3:15 PM, in which you pumped \$25.20 worth of fuel into a 1977 red Pontiac automobile with Maryland license ETD 788, which is registered to you, and put a false name and license number on the credit card charge slip which was imprinted by AMOCO card 4801-0015. Another incident occurred on April 14, 1983, at 7:00 PM, in which you put 11 gallons of gas valued at \$15.76 into the same vehicle and completed the charge slip with a false name and license number that was imprinted with AMOCO credit card 4801-0011."

Claimant's guilt was well supported and admitted by him. The placing of Carrier's truck and the credit card at his disposal amounted to no less than an act of trust, which in this case Claimant deliberately breached. The dishonesty it involves is serious in character and warrants discipline.

Claimant alleges to have accumulated a long standing and good record in the industry in his employment before and also after entering Carrier's service. The nature of this offense is such, however, that his record of previous service is entitled to bear but little on the outcome here.

Rather, it lies within the sound discretion of Carrier to go to the gravity of the offense itself in assessing the penalty being imposed for the present serious violation. In its judgment, the proper discipline is dismissal.

We refrain from setting aside or modifying Carrier's judgment, in which we find no excessive application of discipline or abuse of discretion.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

