

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26131
Docket Number SG-26277

Peter R. Meyers, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Providence and Worcester Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Providence and Worcester Railroad Company:

On behalf of J. J. Jette for all lost time and benefits when, on May 14, 1985, he was dismissed from Carrier service account of alleged careless behavior while working on Tuesday, May 8, 1984."

OPINION OF BOARD: Claimant was first employed by the Carrier in September 1977 as a Track Technician. On May 8, 1984, Claimant was working in a group assigned to gather tools from along the right-of-way. As Claimant tossed a load of tools onto the bed of the truck, one of the tools bounced off the others and broke the cap and the window of the truck. By letter dated May 14, 1984, Claimant was dismissed from service. The Organization thereafter filed a Claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the evidence in the record, and it finds that there is sufficient evidence to support the finding that the Claimant was guilty of carelessness and other safety violations on May 8, 1984, when he was loading tools into the bed of the hi-rail pickup truck being used by his gang. The record is clear that the Claimant was aware of the great importance that the Carrier places on proper and safe conduct, and his actions clearly violated several General Safety Rules requiring employees to exercise care to prevent injury to themselves and others.

Once this Board has determined that there is sufficient evidence in the record to support the finding of guilty, we next turn our attention to the type of discipline imposed. This Board will normally not set aside the Carrier's imposition of discipline unless it was unreasonable, arbitrary, or capricious. The Claimant's prior disciplinary record includes a 15-day suspension for insubordination and dangerous operation of a company truck which resulted in damage to a vehicle in 1981 and a 10-day suspension for absenteeism. Moreover, the Claimant had received three written warnings.

Although the Organization argues that the Claimant is a longtime employee, the record is clear that he has worked on a temporary basis over seven years and that his total time of active service was the equivalent of two and three-quarter years.

Consequently, the Claimant does not have a work history either in terms of length of service or in terms of good behavior to justify setting aside the discipline imposed by the Carrier. The action of the Carrier was not unreasonable, arbitrary, or capricious, and the Claim must be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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

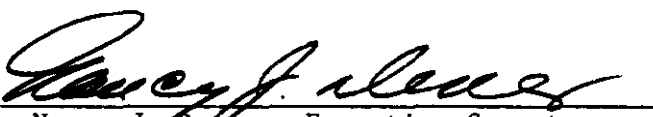
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deper - Executive Secretary

Dated at Chicago, Illinois this 19th day of September 1986.