

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(The Kansas City Southern Railway Company

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

(1) The dismissal of Machine Operator M. L. Nix for allegedly claiming ten (10) hours pay on Daily Work Reports for August 12 and 13, 1986 was harsh and excessive (Carrier's File 013.31-359).

(2) The Claimant shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was employed as a Roadway Machine Operator. On October 15, 1986, Claimant was directed to attend a formal Investigation in connection with a charge that he had submitted falsified Daily Work Reports for August 12-13, 1986, claiming ten hours of pay for each day though he had not worked either day. As a result of the Hearing, Claimant was dismissed from service. The Organization thereafter filed a claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of falsifying the Daily Work Reports on the days in question.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find the action taken by the Carrier to have been unreasonable, arbitrary, or capricious.

Although the Organization points out that the Claimant had over fifteen years of seniority, the record reveals that he was previously disciplined for the same offense and received a thirty-day suspension. Moreover, falsifying daily time records is often considered to be an offense similar to theft, which can lead to immediate discharge.

This Board recognizes that the Claimant was under extreme stress at the time of the incident. However, this Board is not in the position to second-guess the Carrier on issues of discipline. We cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated the Claimant. Therefore, we will deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Deyer Executive Secretary

Dated at Chicago, Illinois, this 6th day of June 1989.