

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 31839  
Docket No. MW-32118  
96-3-94-3-523**

**The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.**

**(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(CSX Transportation, Inc.**

**STATEMENT OF CLAIM:**

**"Claim of the System Committee of the Brotherhood that:**

**(1) The dismissal of Mr. M. L. Royster on August 30, 1993 for alleged misuse of the Corporation Lodging Consultants (CLC) card on May 21, 22, June 3 and 4, 1993 was unreasonable and excessive and in violation of the Agreement [System File C-TC-5614/12(93-958) SSY].**

**(2) The Claimant shall be reinstated to service with full seniority and benefits unimpaired, his record shall be cleared of the charges leveled against him 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 employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.**

The essential facts of this case are not in dispute. Prior to his dismissal, Claimant was assigned as an Equipment Operator on SPG Gang 6XT4. He was regularly assigned to work a ten hour work day, Monday through Thursday, with Friday through Sunday as rest days. The nature of the Gang's work requires each gang member to live away from home during the regular workweek. The Carrier provides lodging and meal allowances for system gang employees so assigned, by providing employees with a Corporate Lodging Consultants, Inc. (CLC) credit card which bills the Carrier directly. On May 21, 22 and June 3, and 4, 1993, the Claimant used his CLC card to obtain lodging at a Holiday Inn located in Sandston, Virginia (approximately 12 miles from his home) on his rest days.

The Organization attempted to defend Claimant by noting that his actions were prompted by the fact that he was having marital problems, and, therefore was unable or unwilling to stay at the residence he and his wife shared. The Organization maintains that in light of mitigating circumstances, the penalty assessed was excessive. It points out that Claimant testified that he harbored no dishonest intent regarding his use of the CLC card.

Claimant's guilt was established at the Hearing when he admitted his unauthorized use of Carrier's credit card to acquire lodging on his rest days. He also testified that he believed he had used bad judgment, although at the time he did not think so and offered to reimburse Carrier for the amount of the hotel charges.

This Board has established a consistent record of viewing any form of theft as a serious breach of trust between employee and employer. Although Claimant's disingenuousness at the Hearing is admirable, as is his elicited willingness to repay Carrier, his admissions were the result of having been caught. He did not step forward in June to reveal his actions. Rather, it was not until the Carrier's Accountant discovered the charges in mid-July that Claimant made any offer of repayment or expression of contrition. Under the circumstances, we see no reason to disturb Carrier's assessment of discipline.

Finally, nothing on this record supports the Organization's argument that Claimant was not given a fair and impartial Hearing.

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**AWARD**

**Claim denied.**

**ORDER**

**This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.**

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division**

**Dated at Chicago, Illinois, this 26th day of December 1996.**