

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 33387
Docket No. SG-34455
99-3-98-3-81

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc. (former
(Louisville & Nashville Railroad Company)

STATEMENT OF CLAIM:

"Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville & Nashville Railroad:

Claim on behalf of E. Gibbs, Jr. for reinstatement to service and for payment for all time lost (including overtime) as a result of his dismissal following an investigation conducted on February 14, 1997, account Carrier violated the current Signalmen's Agreement, particularly Rule 55, when it failed to provide the Claimant with a fair and impartial investigation and imposed harsh and excessive discipline against him in this matter. Carrier's File No. 15 (97-62). General Chairman's File No. 97-208-2. BRS File Case No. 10427-L&N."

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.

On February 7, 1997, the Claimant was notified to appear for an Investigation to determine his responsibility, if any, in connection with his alleged improper use of his Corporate Lodging Card (CLC) from November 3 through November 27, 1996.

On March 12, 1997, the Claimant was notified that he had been found guilty of dishonesty, conduct unbecoming an employee, and making unauthorized and improper charges to the Carrier. Consequently, the Claimant was dismissed from service.

On March 19, 1997, the Organization filed the instant claim on behalf of the Claimant contending that the Carrier did not provide the Claimant a fair and impartial Hearing. Furthermore, the Organization argued that the Carrier did not provide the Claimant sufficient training on the proper use of the CLC. The Organization contends that the Claimant attempted to pay back the charges and that he was only trying to obtain the lowest rate while he was away from home.

The Carrier denied the claim contending that although the Claimant was awarded a System Construction Gang position, he was held back temporarily at the Tilford Yard in Atlanta, Georgia, due to a pressing workload. The Carrier points out that the Claimant had secured lodging at the Knights Inn Motel on November 3, prior to his being awarded the System Construction Gang position on November 5, 1996. The Carrier argues that the Claimant was never given permission by his Supervisor to stay at a motel near his assigned headquarters. Furthermore, the Carrier argues that the Claimant was sent instructions governing the use of the CLC in June 1994. The Carrier contends that the Claimant admitted staying at the motel prior to being awarded the System Construction Gang position.

The Board reviewed the procedural arguments raised by the Organization and we find them to be without merit.

The Board subsequently reviewed the evidence and testimony in this case and we find sufficient evidence in the record to support the finding that the Claimant was guilty of dishonesty and conduct unbecoming an employee when he misused the CLC and personally benefitted from it. Although the Claimant offered to make restitution, the record is clear that he was guilty of misusing the CLC between November 3 and November 27, 1996.

Once the 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. The Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

Dishonesty offenses usually lead to dismissal of the employee. See Third Division Awards 32454 and 16170. Many other Board Awards have upheld the dismissal of employees who abuse their employment privileges, particularly those involving the misuse of a Carrier's credit cards.

For all of the above reasons, this claim must be denied.

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 13th day of July 1999.