

Award No. 11052

Docket No. CL-13310

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5115) that:

(1) Carrier violated the Rules Agreement when it held Miss Carlene J. DeRochie, Telephone Switchboard Operator, Akron, Ohio, Lake Region, out of service beginning 5:00 P.M., D.S.T., Monday, July 25, 1960, and subsequently imposed discipline of dismissal from service.

(2) Miss Carlene J. DeRochie shall now be restored to service of Carrier with seniority and all rights unimpaired and her record cleared.

(3) Miss Carlene J. DeRochie shall now be reimbursed for all wage loss sustained as a result of Carrier's action. [Docket 885]

OPINION OF BOARD: There is little dispute with respect to the facts leading up to Claimant's dismissal from service.

Claimant was a Telephone Switchboard Operator in the Freight Station at Akron, Ohio, with seniority date of September 7, 1956. Among other duties, Claimant furnished information to the public by telephone and to persons who appeared at Carrier's office where Claimant was employed.

In the evening of June 23, 1960, the Security Department of B. F. Goodrich Tire and Rubber Company telephoned Carrier's Chief of Police and advised him that Claimant was arrested by the Akron City police and held on suspicion of theft of two tires from the Goodrich plant. The Goodrich Company is a valued customer of the Carrier. The two tires were found in Claimant's garage; she admitted driving the car into which the stolen tires were thrown over the fence. She appeared, with her attorney, before Judge Nathan A. Koplin, of the Akron Municipal Court on July 22, 1960 and pleaded Not Guilty to a charge of receiving stolen property. A hearing followed and testimony was taken of all knowledgeable and pertinent witnesses, including Claimant. She was found guilty and she was sentenced to 30 days in the Akron City Workhouse and fined \$100.00 and costs. The Judge subsequently suspended the jail sentence and reduced the fine to \$50.00 with the stipulation that Claimant would be involved in "no more violations in the City of Akron." Claimant paid the \$50.00 fine and costs.

She was held out of service and charged with:

"Bringing discredit to the Pennsylvania Railroad Company by your conduct and actions at Akron, Ohio, on Thursday, June 23, 1960."

A full hearing on the charge was held on July 29, 1960 and she was dismissed from service by letter dated August 4, 1960 and signed by Claimant on August 9, 1960.

The Organization contends that Claimant should be reinstated with full back pay because Claimant committed the fraudulent act while off duty, and that "there was no evidence in trial or at appeal hearing that appellant brought discredit to the Pennsylvania Railroad Company." They do not condone what the Claimant did on June 23, 1960. "The sole question for consideration in this dispute is Carrier's allegation that Claimant's involvement in what happened on June 23, 1960, brought discredit upon the Carrier."

It is generally recognized rule that an employe may be disciplined for acts done off the property. The test is whether the outside conduct affects the employer-employe relations. What conduct affects such relationship depends upon the situation in each case.

The conduct of Claimant and her conviction on a charge of receiving stolen property was embarrassment to the Carrier. Not only did her conviction adversely affect the employer-employe relationship because Claimant spoke to and met persons who had business with the Carrier, but her criminal act directly involved a valued customer of the Carrier. Retaining Claimant as an employe after her conviction could have had an unfavorable impact on the Carrier's relations with the B. F. Goodrich Tire and Rubber Company. Claimant's conduct brought discredit to the Carrier.

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 Carrier did not violate the Agreement.

AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of January 1963.

AWARDS ON WITHDRAWN CASES

The following are Division Dismissal Awards covering disputes withdrawn by the parties from further consideration by the Division:

AWARD NO.	PARTIES TO THE DISPUTE	DOCKET NO.
11053	United Transport Service Employees The New York Central Railroad Company, Eastern District, including Boston and Albany Division	CL-13669