

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20849
Docket Number MW-21048

Francis X. Quinn, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Chicago and North Western Transportation
(Company

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

(1) The dismissal of Messrs. J. M. Rodriguez and J. I. Martinez for alleged "theft or possession of lost or misplaced property" was capricious, arbitrary, without just and sufficient cause and on the basis of unproven charges (System Files D-11-17-68 and D-11-17-69).

(2) Messrs. J. M. Rodriguez and J. I. Martinez be reinstated with seniority, vacation and all other rights unimpaired; the charges against them be stricken from their respective records; they be compensated for all wage loss suffered, all in accordance with Rule 22(e).

OPINION OF BOARD: We find the Carrier met its burden of proving by substantial evidence a finding of guilt in this instance.

We further find that Carrier's action in assessing the discipline of dismissal was not unreasonable or arbitrary, considering the seriousness of the charges.

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 Employee involved in this dispute are respectively Carrier and Employee 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

Agreement not violated.

Award Number 20849
Docket Number MW-21048

Page 2

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Paulson*
Executive Secretary

Dated at Chicago, Illinois this 24th day of October 1975.