

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20888
Docket Number MW-21034

Lloyd H. Bailer, Referee

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

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

(1) The dismissal of Assistant Foreman-Truck Driver G. L. Draper was excessive and wholly disproportionate to the offense with which charged (System File D-11-24-7).

(2) Claimant G. L. Draper be restored to service with all seniority and vacation rights unimpaired.

OPINION OF BOARD: Claimant Draper, an assistant foreman-truck driver, was dismissed from service because of his unauthorized use of a Company vehicle. Claimant was aware of a Carrier operating rule prohibiting the use of Company vehicles for other than Company business, except on the authority of the employee's supervisor. Approximately two years prior to the incident involved in the present dispute, claimant had been reprimanded for violation of the same operating rule.

The evidence is clear that no supervisor authorized claimant to use a Company vehicle for transportation to his residence on the occasion in question. The circumstances asserted as extenuating are insufficient to excuse this violation of Carrier's entirely justifiable and necessary operating rule. The fact that no charge of theft is involved does not lessen the serious nature of claimant's offense. Claimant therefore exposed himself to disciplinary action. Under all the circumstances we are unable to say that Carrier abused its discretion in assessing the penalty of dismissal.

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;

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That this Division of the Adjustment Board has jurisdiction
over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 12th day of December 1975.