

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20931
Docket Number SG-20889

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Robert W. Blanchette, Richard C. Bond and
{ John H. McArthur, Trustees of the Property
{ of Penn Central Transportation Company,
{ Debtor

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the former Pennsylvania Railroad Company:

System Docket No. 567
Southern Region - Southwestern Division Case No. S-10-66

Appeal of J. R. Ash, Maintainer C&S, Seniority District No. 25, from discipline of dismissal from service on August 29, 1966.

OPINION OF BOARD: Carrier asserts that Claimant failed to progress the claim for a period of approximately six (6) years - to the detriment and prejudice of the Carrier; and that, accordingly, the claim is now barred by the doctrines of Laches and Estoppel. Our disposition of the case, on its merits, makes it unnecessary for us to rule on that contention.

On August 29, 1966, subsequent to investigation, Claimant was dismissed for "unauthorized disposition of Company material..."

The record clearly establishes that Claimant sold scrap copper wire (which was the property of the Carrier) on certain occasions. Claimant asserts that his activity was not motivated by personal gain; but rather, he utilized the proceeds to purchase a refrigerator for the camp car. It further develops that inaccurate bills for ice supplies were submitted to assist in defraying the cost.

The timing of the sales of the wire, and the method of paying off the refrigerator, cause us to express some doubt as to Claimant's unselfish motivations. But, in any event, countless Awards of this Board have held that established dishonesty constitutes a basis for termination, and that this Board is not constituted to substitute its judgment for that of Carrier, unless we are confronted with a showing of arbitrary or capricious action, or the like. No such showing was made here.

We have noted the various contentions concerning polygraph tests, and have considered their possible effect upon Claimant's rights. We do not find that Carrier attempted to substitute the result of said tests for substantive evidence of wrongdoing, and thus we are not inclined to overturn Carrier's findings - under the facts of this record - and in consideration of the admissions contained therein.

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 Employees involved in this dispute are respectively Carrier and Employees 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 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 16th day of January 1976.