

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21444
Docket Number CL-21560

Robert M. O'Brien, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Grand Trunk Western Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-8048, that:

1. Carrier violated the Agreement between the parties when it failed to give Mr. J. W. McNamee a fair and impartial hearing, and in abuse of discretion dismissed claimant based on charges not substantially proven.

2. Carrier shall be required to reinstate Mr. McNamee to the position he formerly held (Crane Helper) and compensate him for all time lost, as well as Travelers Insurance premiums and any additional expenses incurred until he is returned to service.

OPINION OF BOARD: By letter dated February 14, 1975, claimant was notified to attend a formal investigation on February 21, 1975 to "determine your responsibility, if any, for being in unauthorized possession of Company property, i. e., two (2) Model WL-801, 8,000 BTU Comfort-Air Air Conditioners, serial numbers 2305-220092 and 2305-220261 and unauthorized selling of same at Battle Creek, Michigan, on or about June 8, 1974."

Following the investigation, which was postponed at petitioner's request and ultimately held on March 14, 1975, claimant was notified by letter dated March 20, 1975, that he was found guilty of the above charges and he was dismissed from the service of the Carrier.

In the subject as outlined above and the presentation of this dispute, petitioner raises certain procedural questions, arguing that the hearing was not fair and impartial; that the charges were not precise; that the Carrier officer who rendered the decision did not hear the testimony; that the charges were not proven but were based on "hearsay" testimony.

This Board has carefully reviewed the entire record in this case and finds that none of claimant's substantive procedural rights under the Agreement were violated in the manner in which he was charged or in the conduct of the investigation itself or in assessment of the discipline. There was sufficient probative evidence adduced at the investigation to support the charges against the claimant. We find no basis to justify reversal of the Carrier's determination.

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 28th day of February 1977.

