

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22044
Docket Number CL-22153

David P. Twomey, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(The Chicago, Rock Island and Pacific
(Railroad Company
((William M. Gibbons, Trustee)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8385) that:

1. The Agreement covering the hours of service and working conditions between the parties was violated by the Carrier, especially Rules 39 and 44 at Goodland, Kansas, March 25, 1975, in the treatment accorded Agent R. M. Miller in dismissing him from service for alleged violation of Carrier Rules (K) and (N) of their G-147 revised and Rule 509 (4) of the Uniform Code of Operating Rules, and

2. Agent R. M. Miller shall be restored to service with all rights unimpaired and compensated for all monetary loss sustained beginning April 1, 1975, and subsequent thereto until restored to service.

OPINION OF BOARD: The Claimant, Mr. R. M. Miller, held the position of Agent at Burlington, Colorado. By letter dated February 18, 1975, the Claimant received the following notice from the Carrier:

"You are hereby notified that an investigation will be held in the office of the Trainmaster at Goodland, Kansas on Monday, February 24, 1975, at 9:00 AM MDT, to develop the facts, discover the cause and determine your responsibility if any, for the reported misuse of Railroad credit when you purchased in your behalf, from Heinz Office Supply in Burlington, Colorado, an 805 Unicorn Electronic Calculator, in violation of Rules K and N of the Uniform Code of Operating Rules; and also a reported violation of Rule 509, Paragraph 4, concerning use of company phone for personal affairs.

"These reported violations were first reported to the Superintendent at 12:00 Noon on February 18, 1975."

The investigation was postponed, and was thereafter held on March 25, 1975. By letter dated March 31, 1975, the Carrier's Superintendent, Mr. Phelps, notified the Claimant that he was discharged from the service of the Carrier as follows:

"You are hereby notified that your employment with this Company and any and all seniority rights held by you have been terminated as of April 1, 1975 because of your responsibility in connection with misuse of railroad credit when you purchased in your behalf from Heinz Office Supply in Burlington, Colorado an 805 Unicorn Electronic Calculator, also use of company phone for personal affairs in violation of Rules "K", "N" and 509 (4) of the Uniform Code of Operating Rules as developed in the investigation held at Goodland, Kansas on March 25, 1975."

Clear evidence of record establishes that the Claimant was responsible for misusing railroad credit in the purchase of the calculator from Heinz Office Supply in Burlington, Colorado and was unquestionably responsible for using the company phone for personal affairs. We find no basis in the record before the Board for disturbing the Carrier's determination in the instant matter, and we shall deny this claim.

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.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *Al W. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this 28th day of April 1978.