

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22840
Docket Number MW-23002

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Consolidated Rail Corporation

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

(1) The dismissal of Maintenance of Way Repairman Andy Cilona was without just and sufficient cause and wholly disproportionate to the offense with which charged /System Docket 366/.

(2) The claimant shall be returned to service with seniority and all other rights unimpaired and he shall be compensated for monetary loss suffered."

OPINION OF BOARD: On December 16, 1978, claimant was employed as a repairman in the carrier's Canton, Ohio, Maintenance of Way Shop. He was removed from service on that day when company property was found in his locker. Subsequently, claimant admitted that there was other company property in his truck and at his home.

A hearing was held in the matter on January 18, 1978. As a result, claimant was notified on January 23, 1978, of his dismissal from service. A copy of the transcript of the hearing was made a part of the record of this case. The investigation produced substantial evidence, including the claimant's own admission, to prove that he had removed railroad property.

The Board has carefully reviewed the record and finds that claimant's substantive procedural rights were not violated.

It is universally accepted in the railroad industry that the theft of company property is cause for discharge. Railroad employees, with long years of service, have been terminated for this offense. Employees who have stolen items of small value have been discharged, as well as those who helped other employees to steal.

This Board need not, at this late date, cite previous awards to justify this position. It is common knowledge among all railroad employees. The claimant admitted that he stole company property. This Board has no recourse but to uphold his discharge.

The organization's argument that claimant cooperated with carrier in returning the stolen goods has no bearing on his guilt and cannot mitigate against his discharge.

Its claim that because claimant was found innocent of stealing in criminal court, he must be innocent of the charges brought by the railroad, is also strained. Claimant admitted his guilt. What happened in a criminal proceeding involving this incident has no consequence in face of an admission of guilt.

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

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 May 1980.