

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23506
Docket Number MW-2387

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Milwaukee-Kansas City Southern Joint Agency

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

(1) The dismissal of Trackman Kenneth Fox for alleged theft was without just and sufficient cause and on the basis of unproven charges (Carrier's File 013.31-220).

(2) Trackman Kenneth Fox shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: The record shows that claimant entered Carrier's service as a track laborer on November 8, 1978. On December 10, 1979, he was notified:

"You are instructed to report to the office of the General Superintendent at 0900 December 18, 1979, for formal investigation to determine the facts and your responsibility in connection with your allegedly stealing some money from another employees locker at the roundhouse at or about 1600 August 24, 1979.

Arrange for representative, if desired, in accordance with current M of Way agreements.

You must acknowledge receipt of this notice by signing the attached copy and returning it promptly to this office."

The investigation was postponed and held January 18, 1980, following which claimant was dismissed from the service. A copy of the transcript of the investigation has been made a part of the record. In the investigation it was shown that claimant was convicted in court, fined \$100.00, and thirty days suspended sentence.

Based upon the entire record, the Board finds no proper basis for disturbing the discipline imposed by the Carrier.

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. Paulson

Executive Secretary

Dated at Chicago, Illinois, this 20th day of January 1982.

