

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23992
Docket Number SG-23852

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Burlington Northern Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern:

On behalf of Mr. T. F. Spalla, former Signalman, Crew #135, who was dismissed as a result of formal investigation held on December 13, 1979, at Ottumwa, Iowa." (General Chairman file: C-80-218. Carrier file: SI-20 5/20/80)

OPINION OF BOARD: Claimant, T. F. Spalla, A Signalman with some 19 years service with the Carrier was served a notice of investigation "to ascertain the facts and determine your responsibility in connection with theft and selling of BN property...". An investigation was held on December 13, 1979 and Claimant was dismissed from service on January 11, 1980. The Organization seeks reinstatement of Claimant to his position as Signalman.

A review of the record before the Board amply establishes through the testimony of the Special Agent, and Claimant's testimony and written statement that Claimant did take and sell some \$500.00 worth of wire belonging to the Carrier. It is urged, however, that the penalty of dismissal was too harsh. Claimant, as a veteran employee, was aware that the Rules make dishonesty a dismissable offense. That Claimant made restitution after discovery by the Carrier of his involvement in the missing materials does not gainsay the clear impropriety of his preceeding actions. As Referee Yagoda observed in Third Division Award 22119:

"While we are not unmindful of the serious and final nature of discipline by dismissal neither can we forget that dishonesty in all of its shapes and sizes is a serious matter which, when proven, this Board has repeatedly held to be sufficient cause for dismissal."

In view of the seriousness of Claimant's actions the penalty of dismissal was not unreasonable.

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: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 17th day of September 1982.

