

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24116
Docket Number MW-24141

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
{ Soo Line Railroad Company

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

(1) The dismissal of Machine Operator R. J. Hedrington was excessive and wholly disproportionate to the charge leveled against him (Carrier's File 800-16-B-63).

(2) Mr. R. J. Hedrington shall be reinstated as a section laborer with seniority and all other rights as such unimpaired."

OPINION OF BOARD: Claimant entered service on June 2, 1976 and worked for Carrier as a Group III Machine (or Brushcutter) Operator. Because the nature of the work performed by Claimant required him to live away from his home or from headquarters point during the week Claimant was, therefore, entitled to reimbursement for the cost of meals and lodging as so stipulated by Rule 16(b)(2) of the Agreement between the parties. Rule 16 reads, in pertinent part:

"(b) Employees while away from their regular outfit or regular headquarters by direction of the Carrier will be reimbursed for cost of meals and lodging as follows:

(2) Other employees, including those covered by Rule 17, shall be reimbursed for the actual cost of lodging and meals, except that this shall not apply on the first day to the mid-day lunch customarily carried, nor shall it apply to employees traveling in exercise of their seniority rights.

Carrier had an informal policy of reimbursing machine operators and helpers for actual, reasonable expenses, rather than the dollar figures specified under Arbitration Award No. 298. On May 18, 1977 Claimant received a letter from the Regional Engineer cautioning him about excessive expenses. When Claimant was then held out of service by the Roadmaster on September 12, 1979 for allegedly falsifying his expense account for a period of several months, Claimant requested a hearing which was subsequently held on September 21, 1979. As a result of this investigation Claimant was notified on September 28, 1979 that he was being dismissed from service.

A review of the transcript of the investigation shows, in an incontrovertible manner, that sufficient substantial evidence is present to lead a reasonable mind to accept, in this case, the finding that Claimant is guilty as charged. It only remains, therefore, to determine if the penalty imposed by Carrier is appropriate.

Numerous Awards by this Board in the past (Second Division No. 1850; Third Division Nos. 2646, 2696, 8715 inter alia) have pointed out that theft is a matter of grave and serious concern in the railroad industry and that this Board will not substitute its own judgment for that of a Carrier when such acts are proven to be true. Given the facts of this case, this Board will not disturb this tradition.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of January 1983.

