

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24125
Docket Number MW-24242

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Burlington Northern Inc.
(former St. Louis-San Francisco Railway Company)

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

(1) The resignation of Track Foreman H. R. Santin on March 19, 1980 was obtained through coercion and duress and it was thereby invalid (System File B-1243/R-21136).

(2) Track Foreman H. R. Santin be reinstated with all rights unimpaired and compensated for all wage loss suffered because of the violation referred to in Part (1) hereof."

OPINION OF BOARD: On March 19, 1980 the Claimant resigned from the employ of the Carrier: he admitted by means of a document signed in the presence of three witnesses that he had used a Carrier credit card to obtain monies for his own use and the record of the transcript of an investigative hearing subsequently held on April 21, 1980 on leniency basis by Carrier on these matters indicates, in the mind of the Board, that sufficient substantial evidence is present to support this signed statement by Claimant.

This Board has gone on record on numerous occasions in the past to the effect that Carriers are not required to keep in their employ employees who engage in dishonest and/or fraudulent behavior (Third Division Awards 19735, 22791 and 23098 inter alia).

The specific issue for resolution before this Board, however, is not whether Claimant is guilty of any number of dishonest act(s) in direct violation of Rules 176 and 181 for which there is sufficient probative evidence, but whether Claimant was coerced into tendering the resignation noted above on March 19, 1980. A complete review of the transcript of the hearing held on April 21, 1981 as well as all additional exhibits and submissions provided to this Board on this case fail to convince this Board that the resignation of Claimant on March 19, 1980 was other than a free, voluntary act.

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.

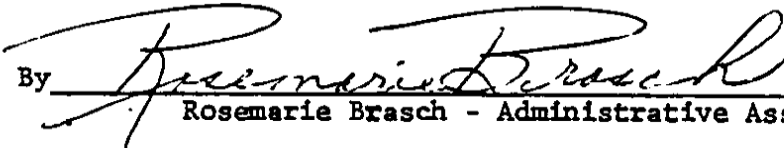
A W A R D

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 14th day of January 1983.

