

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24299
Docket Number MW-24206

John B. LaRocco, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
{ Baltimore and Ohio Railroad Company

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

(1) The dismissal of Welder Jerry Goldman and Welder Helper Gerald Wynn for alleged 'misuse of a company owned gasoline credit card which was used to purchase gasoline for a personal vehicle on Friday, November 30, 1979' was unwarranted, without just and sufficient cause, on the basis of unproven charges and in violation of the Agreement (System Files IND-728/2-MG-2737 and IND-727/2-MG-2738).

(2) The claimants shall now be allowed the benefits prescribed in Agreement Rule 48(e)."

OPINION OF BOARD: On November 30, 1979 Claimants used a company credit card to purchase gasoline for Claimant Wynn's personal automobile at Tuscola, Illinois. Both Claimants declared that the gasoline purchase was an accepted method for reimbursing Claimant Wynn who had supposedly utilized his own car to conduct company business. The Track Supervisor testified that all employees had been instructed to submit an expense account form if and when any employee was authorized to use his private automobile for a company purpose. After an investigation held on January 17, 1980, the Carrier dismissed Claimants from service for misuse of the company credit card.

The Organization argues that Claimants were merely following an alleged past practice. At various times in the past, the Carrier had purportedly permitted employees to buy gasoline for their personal autos on a company issued credit card. Also, the Organization asserts that even if Claimants committed the offense, dismissal was an excessive and arbitrary penalty. The Carrier contends that Claimants attempted to deceive the Carrier by using the credit card, without authority, to purchase gasoline for a private automobile.

In this case, Claimants purchased gas for Claimant Wynn's car on the company credit card. Both Claimants knew the credit card was to be used only to buy fuel for company vehicles. In addition, there is little or no evidence that Claimant Wynn had, in the recent past, actually used his auto for company business.

The record before this Board clearly reflects that, during the present Track Supervisor's tenure, employees were reimbursed for any out of pocket expenses after they had submitted the appropriate expense account forms. Instead of filing the appropriate expense account voucher, Claimants intentionally and dishonestly engaged in a gross misuse of a company credit card.

Dishonesty is a serious offense which warrants a severe penalty. Third Division Awards No. 13130 (Kornblum) and No. 23204 (Dennis). Since both Claimants were willing and active participants in the dishonest act, we must uphold the discipline assessed against each of them.

Inasmuch as we are denying this claim on its merits, we need not address the Carrier's contention that the claim submitted to this Board was substantially different from the claim handled on the property.

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 Employee involved in this dispute are respectively Carrier and Employee 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 April 1983.

