

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26474
Docket Number MW-27022

John E. Cloney, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employes
(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

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

1. The dismissal of Mr. E. L. Young on August 9, 1984 for alleged non-payment of lodging receipts was unwarranted and unreasonable (System File C #27-84/D-2666).

2. The claimant shall be reinstated, his record cleared of the charge leveled against him and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant incurred expenses in the amount of \$60.30 at the Tangney Motor Hotel, Spencer, Iowa, while lodging there in December, 1983, in connection with his employment. He was reimbursed for those expenses by Carrier. In June, 1984, Carrier learned from Tangney that the bill remained unpaid. Claimant was called to the office and told to settle the matter. Thereafter, Project Engineer Cusma wrote Claimant confirming that he should satisfy the debt by July 3, 1984, or be dismissed. Claimant admits receipt of this letter. According to Cusma, a Tangney representative later informed him she had given Claimant until the end of July to pay. Cusma contacted her on August 1, 1984, and she stated she had not received payment. Claimant was therefore notified of his dismissal by letter of August 9, 1984. At a Hearing subsequently requested by the Organization, Claimant testified he had sent a money order in July but "Apparently, it was late getting there or something." Cusma admitted Claimant showed him a receipt after his dismissal, but he could not recall whether it was dated.

The Organization argues Carrier did not prove its charges and, in addition, assessed excessive discipline.

This Board finds Claimant's admissions alone sufficient to establish he did not submit payment in a timely fashion. However, we note the bill was, in fact paid. Accordingly, while discipline was justified, this Board finds the penalty of dismissal excessive in the circumstances. Therefore, we shall require that Claimant be reinstated with his seniority unimpaired, but without compensation for time lost.

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

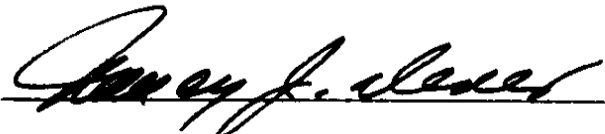
That the discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of September 1987.