

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 27945
Docket No. SG-27948
89-3-87-3-616

The Third Division consisted of the regular members and in addition Referee W. F. Euker when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Seaboard Coast Line)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard System Company (former Seaboard Coast Line):

On behalf of J. E. Williams, for reinstatement to service with all lost time and benefits restored beginning September 9, 1986, and continuing until this dispute is settled, account of Carrier violated the current Signalman's Agreement, as amended, particularly, Rule 47 when it failed to give him a fair and impartial hearing and assessed excessive discipline. Carrier file 15-1 (86-51)."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Claimant, a Signal Inspector, was charged with violating Carrier's Operating Rules G-1 and L, (Dishonesty), when it was learned he possessed certain identified Carrier property on his premises at Franklinton, North Carolina. He was notified to attend a formal investigation, which was held on September 3, 1986, as scheduled, and then notified on September 19, 1986, that based on the evidence presented, he was dismissed from the service. During the progression of the claim on the property, the Carrier asserted an alleged procedural violation, but subsequently it was agreed to handle the case on its merits.

This is one of those cases where there is no serious conflict concerning the testimony or the evidence. The appropriated property, admittedly belonged to the Carrier, but was found in Claimant's possession without adequate or credible explanation. The only real question is did the Claimant take the property with the willful intent of keeping it permanently, or was it as the Claimant so ingeniously describes it "merely a temporary use of Carrier's surplus property." The Claimant states he was just using the property but fully intended to return it. Unfortunately at this point in time, the record does not indicate whether Claimant would have carried out those good intentions.


The Board has stated on numerous occasions that dishonesty, where proven, is a dismissable offense.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deven - Executive Secretary

Dated at Chicago, Illinois, this 6th day of June 1989.