

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company
(former Missouri Pacific Railroad Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company (MP).

Claim on behalf of S. L. Lewis for reinstatement to service, with all lost wages and benefits restored, account of Carrier violated the current Signalmen's Agreement, as amended, particularly the Discipline Rule, when it assessed him with harsh and excessive discipline. GC File 870300G. Carrier file 87-15-GD."

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.

On January 14, 1987, Claimant was in an out of service status because he was serving a sixty day disciplinary suspension. At approximately 8:30 P.M., he was observed bashing the hood, breaking the windshield and three windows, knocking out a headlight and slashing all four tires of another Signalman's pick-up truck while it was parked at Carrier's Bay City, Texas depot. Claimant was arrested, and on February 2, 1987, pleaded guilty in a Texas District Court on a count of felonious criminal mischief and was placed on two years probation. He was also ordered to pay restitution to the other Signalman for the damage done to his vehicle.

On February 12, 1987, Carrier conducted an Investigation into the matter. At the Hearing, Claimant admitted that he was responsible for the incident. Following the Hearing he was notified that he was discharged. A Claim was progressed on his behalf by the Organization, which remained unadjusted on the property. It was appealed to this Board on the basis that the discipline was harsh and excessive, and unjust and unreasonable.

We have carefully examined the entire record in this matter and the authorities relied upon by the Organization in its quest to persuade us that the discipline of dismissal should be modified. In the circumstances of this case, we are not persuaded that a modification is in order. Claimant, already serving a sixty day suspension, participated in an act of vandalism on a co-worker's private vehicle while it was properly parked on Carrier property. Carrier need not retain in its service an individual who would participate in such a nefarious deed. Moreover, law abiding employees of Carrier should be able to expect to park their private vehicles on Company property and that they will not be vandalized by a disgruntled coworker, for whatever the reason.

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 27th day of April 1990.