

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32083
Docket No. SG-32857
97-3-96-3-200**

The Third Division consisted of the regular members and in addition Referee Jonathan S. Liebowitz when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Baltimore and
(Ohio Railroad Company)**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Company (B&O):

Claim on behalf of F. Tabron for reinstatement to service with his seniority unimpaired, account Carrier violated the current Signalmen's Agreement, particularly Rule 50, when it failed to provide the Claimant with a fair and impartial investigation and imposed harsh and excessive discipline of dismissal in connection with an investigation conducted on July 1, 1994. Carrier's File No. 15(95-159). BRS File Case No. 9807-B&O.”

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

Claimant was instructed to obtain a CDL license in December 1993. Under date of June 25, 1994, the Carrier charged him with falsifying his December 1993 Expense Report in that he inappropriately submitted for reimbursement an alleged receipt for \$90.00, which he claimed was paid by him to the Maryland Department of Motor Vehicles. The Investigation was conducted on July 1, 1994. The conclusion there was that Claimant committed a dishonest act. The Carrier cited prior five and ten day suspensions for failure to protect an assignment and unauthorized absence from position on April 26 and May 12, 1994.

The record shows that Claimant submitted an expense of \$90.00 for taking a Maryland CDL examination on December 23, 1993 which he did not pass and for which he was not charged, but that Claimant did not return the sum of \$90.00 to the Carrier, nor did Claimant ever obtain the CDL.

The Organization's argument that the Carrier failed to conduct a fair and impartial Investigation is not substantiated by the record. When the Carrier learned of the fact that the State of Maryland did not charge a fee for taking the examination if the examinee failed, the Carrier sent an inquiry to the State and upon receiving a response that there was no record of Claimant having taken the examination and that he had not paid \$90.00 to the State, the Carrier initiated the Investigation. There is no indication in the record that the Investigation was not conducted in a fair and impartial manner under the provisions of Rule 50.

The record also shows that Claimant testified during the Investigation that (1) he failed the test, (2) the testing facility did not accept his check for \$90.00 and (3) he admitted that he knew that no funds would be taken from his account, but submitted a copy of the check as an expense for the month of December 1993. His defense was that he was not going to submit another \$90.00 expense whenever he actually obtained his permit license, but he never obtained the license.

The record demonstrates that Claimant committed a dishonest act in claiming an expense which he knew or should have known he was not entitled to receive. Claimant only submitted a copy of the front of the check. He never paid the \$90.00 and he never received a CDL.

Falsifying an expense report is a dishonest act which constitutes a fraudulent claim for reimbursement of funds by the Carrier. Thus the Organization's argument that dismissal was harsh and excessive for this offense is not substantiated by the record. In Third Division Award 22119, the Board held:

"While we are not unmindful of the serious and final nature of discipline by dismissal neither can we forget that dishonesty in all of its shapes and sizes is a serious matter which, when proven, this Board has repeatedly held to be sufficient cause for dismissal."

The record shows that Claimant was hired in 1991 and had three years' employment at the time of his dismissal. As noted above, he had received five day and ten day actual suspensions.

Accordingly, the record demonstrates no basis for this Board to overturn the decision reached by the Carrier.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 9th day of July 1997.