

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35764
Docket No. MW-35139
01-3-98-3-880**

The Third Division consisted of the regular members and in addition Referee Barry E. Simon when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company (former Southern
(Pacific Transportation Company [Eastern Lines])

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The discipline (withheld from service and subsequent dismissal) imposed upon Machine Operator F. G. Davis, Jr., for alleged violation of Rule 1.6(4) in connection with the charges that ‘ . . . you submitted fraudulent mileage and meal charges from September 30, 1996 to June 6, 1997; on May 3, 1997 you charged your room to the CLC Card for personal use; and on June 4, 1997, June 5, 1997 and June 6, 1997 you charged CLC room without authority; on June 5, 1997 you charged a meal on your personal expense when no meal period was taken; on June 6, 1997 you charged a lunch meal, when a lunch meal period was paid for by ARSA Supervisor Mark Boddien; and on June 6, 1997 you falsely claimed time to time keeping, which you were not entitled to. . . .’ was arbitrary, capricious, on the basis of unproved charges and in violation of the Agreement (System File MW-98-23/1106725D SPE).**
- (2) As a consequence of the violation referred to in Part (1) above, the Claimant shall be reinstated to service with seniority and all other rights unimpaired, his record cleared of the charges leveled against him, he shall be compensated for all wage loss suffered and ‘ . . . be reimbursed for expenses that occurred from Sabinal, Texas, to San Antonio, Texas, on September 11, 1997 to attend an investigation, per diem pay for all lost days including weekends, for all seniority**

rights, all lost days to be counted as qualifying days for vacation purposes. . . . ”

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.

Following a formal Investigation, the Claimant was dismissed from service for falsifying his expense reports. The Organization chiefly argues the Carrier's action was in retaliation for the Claimant filing an action under the Federal Employers' Liability Act in connection with a personal injury. It further states the Claimant had been directed by his Supervisor to make excessive claims on his expense report in an attempt to dissuade him from reporting his injury. We do not find that the record before the Board supports either allegation.

The Organization also protests the fact that the charge against the Claimant included expense reports from the previous year, thereby violating the time limit for holding an Investigation. The record shows, however, that the charge also cited no fewer than seven expense report violations within the previous 30 day period. Thus, even if the reference to some of the reports was untimely, at least part of the charge would still be valid.

Upon our review of the record, the Board finds the Carrier did not act unreasonably in concluding the charge against the Claimant had been proven by substantial evidence. Falsification of expense reports is a serious charge and warrants

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dismissal, even in light of the Claimant's lengthy service with the Carrier. The Agreement, therefore, was not violated.

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 24th day of October, 2001.