

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 42813  
Docket No. MW-42921  
17-3-NRAB-00003-140436**

**The Third Division consisted of the regular members and in addition Referee Erica Tener when award was rendered.**

**(Brotherhood of Maintenance of Way Employees Division -  
( IBT Rail Conference  
PARTIES TO DISPUTE: (  
(Soo Line Railroad Company (former Chicago,  
( Milwaukee, St. Paul and Pacific Railroad Company)**

**STATEMENT OF CLAIM:**

**“A Claim of the System Committee of the Brotherhood that:**

- (1) The discipline [ten (10) day suspension) imposed upon Mr. R. Fiebiger by letter dated August 2, 2013 for his alleged violation of GCOR Rule 1.6 Conduct; 1.9 Respect of Railroad Company; 1.13 Complying with Instructions and Policy 6309 Expenses in connection with his alleged fraudulent expense accounts submitted when making claim for reimbursement expense for excessive mileage for January and February 2012, and meal expenses for weekend meals, personal days and safety days when no services were rendered/worked on the days for the months of May, June, July, and December 2012, and discovered during a recent audit and received in my office on July 5, 2013 was on the basis of unproven charges, arbitrary, capricious, excessive and in violation of the Agreement (System File D-46-13-620-04/8-00543 SOO).**
- (2) As a consequence of the above-stated violation, all reference to the aforesaid discipline shall be removed from Claimant R. Fiebiger’s record and he shall be compensated ‘. . . for all lost wages, straight time, overtime, paid and non-paid allowances and safety incentives, expenses, per diems, vacation, sick time, health & welfare insurance, dental insurance, supplemental insurance, and any and all other benefits to which entitled \*\*\*.’”**

**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.

By letter dated July 9, 2013 Claimant was instructed to attend an investigation on July 19, 2013 for the purpose of developing all pertinent fact in connection with allegations that he filed a fraudulent expense account when making claims for reimbursement for excessive mileage for January and February 2012; and meal expenses for weekend meals, personal days and safety days when no services were rendered for the months of May, June, July and December 2012. In a letter dated August 2, 2013 Claimant was notified that he had been found guilty of violating GCOR 1.13 – Complying with Instructions of CP Policy – 6309 Expenses; 1.9 – Respect of Railroad Company; and 1.6 – Conduct. For these violations, Claimant was assessed discipline in the form of a ten days suspension without pay.

According to the record before this Board, the Claimant works as an Ultrasound Tester and has been employed with the Carrier for 22 years. The Claimant's job required significant travel which entitled him to certain expenses such as mileage and meal allowances. Expense reports are completed and submitted to a supervisor for approval. In July 2013, the Carrier audited expenses submitted by the Claimant and discovered that he submitted expense reports for days on which he was not entitled to reimbursement. The following is a list of the improper expense reports:

- Expense claim for meals on June 15, 16 and 17, 2012 after taking a personal leave day on June 14, 2012
- Expense claim for meals on July 5, 2012 while on a paid safety day.
- Expense claim for meals on December 17, 2012 while on a paid safety day.

Additionally, the Carrier found that the Claimant submitted a mileage claim for February 23, 2012 with an unaccounted variance of 14 miles.

Employees are not entitled to meal reimbursement on safety days or on rest days directly subsequent to personal leave days. After submitting an expense report for June 2012, the Claimant received a notice dated July 5, 2012 that meal allowance is not reimbursable on the rest days following a Personal Leave Day. The Carrier argues the Claimant made no attempt to amend his June expense and went on to make the similar errors on subsequent expense reports as listed above.

The Carrier argues the claim should be denied in its entirety because there is (1) substantial evidence of the Claimants' culpability, (2) the discipline assessed was reasonable, warranted, and commensurate with the seriousness of the offense, and (3) there were no procedural violations in the Carrier's handling of this case that would warrant voiding the discipline assessed. The Carrier points out it afforded leniency when assessing no discipline to the Claimant with regards to his improper expense claims for May 2012. Instead the Carrier issued a clarifying memo to the Claimant clearly outlining that he was not entitled to meal allowances on rest days subsequent to personal leave days. The Carrier also argues it is difficult to believe an employee with 22 years' experience was not familiar with the rules regarding expense reports.

The Organization contends the claim should be sustained because (1) there are multiple procedural errors and (2) the Claimant believed he was reporting his expenses correctly. The Claimant testified that supervisors informed him that a safety day is treated just like a workday which, to the Claimant meant he was entitled to the same expenses. The Organization argues none of the supervisors charged with reviewing the expense reports picked up the error. There was no intent on the part of the Claimant to deceive or be dishonest on his expense reports.

The Board reviewed the evidence and testimony and concludes a fair and impartial hearing was conducted and that there is substantial evidence that the Claimant violated the Carrier's rules with regards to his expense reports. Filing a claim for erroneous expenses is a serious violation of the Carrier's rules. The Carrier relies on expense reports submitted by its employees to provide monetary reimbursements. Falsification of expenses is a serious infraction that causes mistrust on the part of the Carrier. The Board finds that the Carrier reasonably afforded leniency in this case when issuing a ten-day suspension and that this discipline is neither arbitrary nor excessive.

**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 28th day of November 2017.**