

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43186  
Docket No. SG-44047  
18-3-NRAB-00003-160611**

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

**(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(BNSF Railway Company**

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the BNSF Railway Company:**

**Claim on behalf of N.W. Myers, for reinstatement to service with compensation for all time lost, including overtime, with all rights and benefits unimpaired and any mention of this matter removed from his personal record, account Carrier violated the current Signalmen’s Agreement, particularly Rule 54, when it issued the harsh and excessive discipline of dismissal to the Claimant without providing him a fair and impartial Investigation and without meeting its burden of proving the charges in connection with an Investigation held on February 24, 2015. Carrier’s File No. 35-15-0032. General Chairman’s File No. 15-013-BNSF-129-S. BRS File Case No. 15387-BNSF.”**

**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 notice dated February 12, 2015, the Claimant was directed to attend a formal hearing on charges that the Claimant allegedly had violated Carrier rules by allegedly engaging in the improper use of a Carrier corporate travel card during the period from October 27, 2014, to February 1, 2015, and allegedly had failed to comply with instructions in the Carrier's Travel and Entertainment Expense Policy. The Investigation was conducted, as scheduled, on February 24, 2015. By letter dated March 24, 2015, the Claimant was notified that as a result of the hearing, he had been found guilty as charged and was being dismissed from the Carrier's service. The Organization thereafter filed a claim on the Claimant's behalf, challenging the Carrier's decision to discipline him. The Carrier denied the claim.

The Carrier contends that the instant claim should be denied in its entirety because the Claimant was afforded a fair and impartial Investigation, because substantial evidence establishes that the Claimant is guilty as charged, because there is no merit to the Organization's arguments, and because the discipline imposed was appropriate and consistent with PEPA. The Organization contends that the instant claim should be sustained in its entirety because the Carrier failed to afford the Claimant a fair and impartial Investigation, because the Carrier failed to meet its burden of proof, and because the discipline imposed was unwarranted, harsh, and excessive.

The parties being unable to resolve their dispute, this matter came before the Board.

The Board has reviewed the procedural arguments raised by the Organization, and we find them to be without merit. The record reveals that the Claimant was guaranteed all of his due process rights throughout the proceeding.

The Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating Carrier Rule 1.13, as well as Section 4.2 of the Carrier Travel and Entertainment Expense Policy, when he submitted an expense report that contained \$232.90 of personal charges when he used the corporate credit card on or about February 10, 2015. The Carrier did an Investigation and

discovered that between November 2014 and February 2015, the Claimant had submitted eight expense reports that included personal expenses and other “questionable entries” charged to his corporate credit card. The Claimant admitted at the hearing that he was aware of the Carrier’s policy. Although he stated that he did not read the policy, he did admit that it was his responsibility to know all Carrier policies.

Once the Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. The Board will not set aside a Carrier’s imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

The Claimant was terminated for this latest offense. It is clear that dishonesty is a stand-alone dismissible offense, but the record makes it clear that the Claimant had a second Level S discipline within his active review period only a few months before. Given the seriousness of this offense, coupled with the fact that the Claimant had a previous Level S violation, the Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated the Claimant’s employment for this recent offense. Therefore, this claim must be denied.

**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 30th day of May 2018.