

**Award No. 44602
Docket No. SG-45807
22-3-NRAB-00003-200103**

The Third Division consisted of the regular members and in addition Referee James M. Darby when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (Providence & Worcester Railroad Company**

STATEMENT OF CLAIM:

“Claim on behalf of G.C. Riley, Jr., for reinstatement to his former position with compensation for all time lost including overtime and comp-time if applicable, all seniority and benefits unimpaired including Railroad Retirement credits, compensation for any expenses incurred that would have been covered by Carrier provided insurance, and any mention of this matter removed from his personal record, account Carrier violated the current Signalmen's Agreement 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 March 19, 2018, continued on April 9, 2018. Carrier's File No. D-18-PW-062-1. General Chairman's File No. D-18-PW-062-1. BRS File Case No. 16146-P&W. NMB Code No. 173.”

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.

Carrier hired the Claimant on July 27, 1988. On February 12, 2018, the Claimant worked as Mechanic for the PWRZ in Plainfield, Connecticut. On this date, Director of Engineering James Ferrero arrived at the Plainfield Shop after performing high railing duties and was notified by Mechanics Jack Ruiz and Darren Rondeau that the Claimant was cutting equipment that they were using. Mr. Ferrero was advised that the Claimant took apart torches, cut a welding table and told his coworkers that the equipment was his and that nobody else was going to use it. Mr. Ferrero began taking photographs of the damaged equipment and contacted Superintendent of Locomotives Randall Stahl about the incident. The Claimant did not have permission to alter or damage this equipment and was held out of service the following day, pending a formal investigation.

On March 2, 2018, the Carrier charged the Claimant with, among other things, destroying company equipment. An investigation was conducted on March 19 and April 9, 2018, where the Claimant was provided a full and fair hearing. After concluding there was sufficient evidence presented at the investigation to support a finding of a violation of Carrier rules, the Carrier dismissed the Claimant from service on April 26, 2018. The Organization appealed this determination and the matter is now properly before this Board for adjudication.

The Carrier has provided substantial evidence to support the instant charges. Thus, the record indisputably shows that on February 12, 2018, the Claimant maliciously damaged and altered company tools and equipment without permission. Mr. Ferrero provided credible and corroborated testimony of his findings in the Plainfield Shop and entered evidence including photos taken of the damaged company property on February 12. The damaged company property included a truck light bracket that was cut into three pieces; a blue flag that was cut in half; a welding table that was cut into three pieces; and a torch that had quick disconnects and hoses removed and missing. Ferrero testified that at no time did the Claimant contact his supervisor to ask permission to alter any of the foregoing equipment. The Claimant testified that he did not take any exception to Mr. Ferrero's testimony and admitted taking the items out of service and cutting them without permission. Without question, the Claimant's conduct was inexcusable, and his disregard for company property clearly warranted his dismissal from service.

Accordingly, for all these reasons the claim is 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 29th day of October 2021.