

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 45536
Docket No. MS-48851
26-3-NRAB-00003-240065

The Third Division consisted of the regular members and in addition Referee J. Warren Dent when award was rendered.

(Shanon D. Hampton
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (AMTRAK)

STATEMENT OF CLAIM:

- “1. The Carrier acted in a capricious and arbitrary manner, when they violated TCU off corridor agreement Rule 24(a) when it improperly terminated Claimant Shanon Hampton on Thursday July 19, 2022.
2. The Carrier shall now reinstate claimant Shannon Hampton to service, compensated for all lost wages, overtime, holiday pay and other compensation the claimant would have earned during the time he has been withheld from service; Claimant record will be cleared of the charges made against him in this matter, and all rights, privileges and seniority shall be restored.”

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.

At all times relevant to this dispute, Claimant Shanon D. Hampton – a Carrier employee of 8 years - was employed as a parcel check clerk at Chicago’s Union Station.

As background, Union Station patrons can temporarily store items in the station's secure baggage storage room - \$10 per item for Amtrak customers and \$20 per item for non-customers - with payment accepted in cash or by card. Parcel check clerks are responsible for documenting all transactions using parcel check forms (NRPC Form 4002). The parcel check form is a four-part document; clerks are instructed to attach one copy to the stored item, give another to the customer as a receipt, and file the remaining two copies in the company's accounting records. Since the parcel check desk doesn't have its own cash drawer, clerks are to record cash transactions on the parcel check form and then take the cash and the form to a Customer Service Representative (CSR) for deposit through their drawer. The forms are individually numbered, accountable to the clerk who processed the transaction, and logged on a ticket sequence log form. Red cap tags (NRPC Form 4001) are not to be used in the parcel check area; they are reserved for Red Caps providing free storage for Metropolitan Lounge customers or for customers inconvenienced by train delays.

On February 16, 2022, the Amtrak Office of the Inspector General (OIG) received a hotline complaint alleging that the Claimant was stealing revenue collected from cash customers storing bags at Union Station and falsifying records for parcel check transactions. After assessing the complaint and relevant company policies, the OIG opened an internal investigation to determine whether the Claimant violated any criminal statutes or company policies. At the conclusion of the internal investigation on May 24, 2022, the Claimant was placed on leave pending the outcome of a formal Hearing into the matter. By way of notice dated May 25, 2022, the Claimant was directed to attend a formal Hearing on the following charges:

“...It is alleged that management became aware of an OIG investigation, that was concluded on 05/24/2022, while working as a Parcel Check/Lost and Found agent, that on numerous occasions you improperly processed form NRPC 4001 and failed to process NRPC 4002. This resulted in loss of revenue to the company and good will to our customer. This incident occurred at or near The Parcel Check/Baggage area at Chicago's Union Train Station. Any hearing will investigate this matter and all circumstances related thereto.”

The Hearing was opened and recessed on June 15, 2022, then reconvened and concluded on July 13, 2022.

During the Hearing, the Carrier introduced the OIG Investigation Report, compiled by OIG Senior Special Agent John Donnelly, as Hearing Exhibit C. Agent Donnelly testified that the report found the Claimant in violation of Amtrak's Code of Ethics and Standards of Behavior as well as its Conflict of Interest policies, when 1) on 22 occasions between March 18 and March 26, 2022, he failed to remit parcel check revenue and improperly used red cap tags instead of proper parcel check tags to bypass accounting procedures; 2) on May 13, 2022, he falsified a parcel check form to remit only half of the collected cash revenue to the CSR; and 3) on four specific instances he was observed receiving cash from customers, as payment for a parcel check, and failed to follow established protocols for cash collection or utilizing Amtrak's approved parcel check form to process and record the transaction and remit the collected funds to a CSR. The report also indicated that on six of the 22 occasions, the Claimant did not produce a red cap tag until the customer produced cash. In another instance, he began writing out a red cap tag, then tore it up after the customer presented a payment card. Video footage also captured instances in which the Claimant correctly processed cash transactions, demonstrating that he knew the proper procedures.

In summary, the Carrier asserted that Donnelly's testimony, corroborated by the video evidence, demonstrated that the Claimant violated Amtrak's Code of Ethics and Standards for Behavior which state that employees must "[a]lways be honest and accountable for [their] actions" and that "[u]sing or taking for personal gain any funds, property, services or time belonging to the Company, co-workers or customers, is dishonest and will not be tolerated." In addition, the Claimant violated Amtrak's Conflict of Interest policy, which provides, in pertinent part, that "Employees are prohibited from engaging in... Any other conduct the employee knows or should know is dishonest, unethical, or contrary to the person's obligations to his/her office or employer. Examples of such conduct include, but are not limited to: (a) fraud or deception; (b) theft..."

The Carrier notes that, at the conclusion of the presentation of its case, the Claimant did not testify nor produce any evidence on his own behalf. Neither did he attempt to rebut any of the testimony or evidence presented by the Carrier.

Following the close of the Hearing, via correspondence dated July 21, 2022, the Claimant was notified of his permanent dismissal from the Carrier's service as a result of the Carrier's finding him guilty of the charges against him. Thereafter, the Organization (TCU/IAM) challenged the discipline assessment in an August 11, 2022, appeal submitted on the Claimant's behalf. The parties discussed the case in conference on September 29, 2022, and, via correspondence dated October 27, 2022, the Carrier

denied the Organization's appeal. The Claimant subsequently filed a Notice of Intent to progress the dispute to this Board.

In his submission to the Board, the Claimant alleges various procedural errors on the part of the Carrier that he purports to warrant this Board's sustaining his claim as presented. Regarding the merits, the Claimant contends that the Carrier did not meet its burden of proof and, even if it had, the discipline assessed was harsh, arbitrary, and excessive. For these reasons, the Claimant urges the Board to sustain his claim.

The Carrier contends that the instant claim should be denied in its entirety because the Claimant was afforded a fair and impartial investigation pursuant to the discipline rules of the parties' collective bargaining agreement, because substantial evidence was presented establishing that the Claimant's guilt, and because the discipline imposed was commensurate with the proven offense and not arbitrary, capricious, or excessive.

The Board has thoroughly reviewed the record and considered the parties' positions. We have reviewed the procedural arguments raised by the Organization and found none to be material to the case. We conclude that the substantial evidence clearly proves the Claimant was guilty of theft and dishonesty in violation of Amtrak's Code of Ethics and Standards for Behavior and Conflict of Interest policy. Theft and dishonesty are serious offenses that permanently sever the bond of trust between employers and employees. Breaking that bond of trust is a cardinal offense, more important even than the amount of theft itself.

Having confirmed the Claimant's guilt, we turn to the discipline imposed. Considering the seriousness of the misconduct, dismissal is not an excessive penalty. Many Boards have confirmed that theft and dishonesty are standalone, dismissible offenses. The Board sits as an appellate forum in discipline cases. It is not our function to substitute our judgment for that of the Carrier and decide the matter according to what we might have done had the decision been ours to make. Instead, our inquiry is whether substantial evidence exists to sustain the finding against the Claimant. Here, we find that the record amply supports the Carrier's conclusion that the Claimant engaged in the charged misconduct, and the Agreement was not violated. Therefore, the claim will be denied.

AWARD

Claim denied.

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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 27th day of January 2026.