

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 45621  
Docket No. MS-48390  
26-3-NRAB-00003-230678

The Third Division consisted of the regular members and in addition Referee Steven Bierig when award was rendered.

(Mr. Brad Graziano

PARTIES TO DISPUTE: (

(National Railroad Passenger Corporation (AMTRAK)

STATEMENT OF CLAIM:

“The dispute between myself and Amtrak is in reference to signatures on a company issued headend pass form and payment I received for time worked during the allotted time I was given as a foreman to acquire the physical characteristics of the territory I was awarded after completing foreman school training. I received the required signatures on the headend pass form and reported to work as required by the company. Amtrak’s accusations are false. Amtrak management employees presented hearsay allegations during their testimony at the multiple trials myself and union representative attended. I have a good work record and felt I was mistreated and targeted for no reason. The remedy I seek is reinstatement as an employee and payment for all time lost from the first day after I was discharged to the present day.”

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 the time of his Dismissal, Claimant had been employed by Amtrak for approximately six years. According to the Carrier, on June 29, 2022, Claimant turned in a forged Headend Pass, showing multiple train trips on multiple days in June 2022. This resulted in Claimant being paid amounts not due by the Carrier. Claimant had been recently awarded the Foreman position, which requires training to learn physical characteristics of the track and territory for which the Foreman's gang will be responsible. The training necessitates the incoming Foreman to ride various trains and obtain signatures from an authorized Engineer or Conductor on each train. The incoming Foreman must log their trips on Form NRPC 2998, or Headend Pass, by collecting the signatures on each ride. Claimant was paid for each trip that he logged. According to the Carrier, Claimant was improperly paid for dates that he logged but did not actually perform the work. Those June 2022 dates were June 1, 2, 7, 8, 9, 14, 15, 16, 21, 22, 23, 27, 2022. Claimant was found to have engaged in theft of Carrier funds, which is a terminable offense.

By letter dated July 13, 2022, Claimant was notified of the following Specification and was informed to appear for an Investigation on July 26, 2022:

**Specification:**

It is alleged that on Wednesday, June 29, 2022, Foreman Brad Graziano dishonestly submitted a falsified Headend pass (NRPC 2889) to his supervisor. It is further alleged that Mr. Graziano paid himself on June 1, 2, 7, 8, 9, 14, 15, 16, 21, 22, 23, 27, 2022 for work he did not perform.

After four postponements of the Hearing, the Hearing was set for November 9, 2022, and Claimant did not attend. The final Notice of Investigation was sent to Claimant on November 23, 2022. The Hearing was reconvened on December 7, 2022; Claimant did not attend, although Claimant was represented by the Organization.

On December 19, 2022, the Hearing Officer issued a decision, with a finding that the Charges were proven. By letter dated December 21, 2022, Amtrak issued the discipline of Termination.

By letter dated January 3, 2023, the Organization appealed the discipline to Manager Labor Relations Christopher Richtarich. The appeal was denied on May 25, 2023. This case is properly before this Board.

According to Claimant, the discipline imposed upon Claimant was unwarranted, harsh and excessive. Claimant contends that the burden of proof in a discipline matter such as this is on the Carrier; that burden of proof has not been met. Claimant contends that the Carrier has been arbitrary and capricious in its treatment of Claimant, that the Carrier has abused its discretion, and that the Carrier's determination to dismiss Claimant was based on inconclusive evidence, thus rendering the discipline harsh and excessive. Claimant contends that he did nothing improper. Claimant contends that the Carrier has not been able to prove that Claimant engaged in the alleged behavior. Claimant argues that he performed his duties as instructed and that the signatures on the Headend Pass were accurate. Claimant denies admitting to any guilt. Further, even if Claimant did engage in the relevant behavior, the penalty of Termination was too severe. At the time of the Termination, Claimant had worked for Amtrak for approximately six years. Therefore, the Termination was not appropriate and must be overturned, and Claimant must be made whole for all losses.

Conversely, the Carrier takes the position that it has met its burden of proof. Claimant was afforded a fair and impartial Hearing in accordance with the requirements of the Agreement. Claimant had the opportunity to appear at the Hearing on the property, but chose not to attend, although he was represented by the Organization. According to the Carrier, a review of the transcript developed during the Hearing makes it clear that Claimant was guilty as charged. Claimant violated Amtrak's Standards of Behavior and Code of Ethics in his actions of improperly completing the Headend Pass. The signatures as they appear on the form are identical and appear to be forgeries. This evidence was presented at the Hearing and was not rebutted. Further, evidence presented at the Hearing shows that Claimant admitted that he forged the signatures. Such behavior is a direct violation of Amtrak's Policies requiring that employees act with integrity. It is clear that based on his behavior, Termination was appropriate. Claimant had been with the Carrier for only six years and had received a 10-day Suspension for Workplace Violence, Insubordination, Failing to Perform Duties Properly, and Unprofessional Conduct in May 2019. The Carrier contends that it has proven by substantial evidence that Claimant engaged in the alleged improper behavior and therefore that Claimant violated Amtrak's Standards of Behavior and Code of Ethics. Based on the instant offense, as well as his past disciplinary history, the Termination was appropriate and should not be overturned.

In discipline cases, the Board sits as an appellate forum. We do not weigh the evidence de novo. As such, our function is not to substitute our judgment for the Carrier, nor to decide the matter in accord with what we might or might not have done had it been ours to determine, but to rule upon the question of whether there is

substantial evidence to sustain a finding of guilty. If the question is decided in the affirmative, we are not warranted in disturbing the penalty unless we can say it appears from the record that the Carrier's actions were unjust, unreasonable or arbitrary, so as to constitute an abuse of the Carrier's discretion. (See Second Division Award 7325, Third Division Award 16166)

This Board has reviewed the records and has found substantial evidence to prove that Claimant did engage in the instant offenses. We note that the Carrier has proven by substantial evidence that Claimant violated Amtrak's Standards of Behavior and Code of Ethics when he was found to have falsified the Headend Pass, resulting in compensation to which Claimant was not entitled. We also consider that the offense involved in this matter is very serious, and that Claimant received a 10-day Suspension in May 2019. Based upon the violation alleged and the serious nature of the offense, as well as Claimant's Disciplinary History, we find that the Carrier has proved by substantial evidence that Claimant did engage in the offenses alleged, and we cannot find that the discipline of Termination was unreasonable. Therefore, the Claim is denied.

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 20th day of March 2026.