

PUBLIC LAW BOARD NO. 6920

AWARD NO. 14

CASE NO. 14

PARTIES TO

THE DISPUTE: Brotherhood of Maintenance of Way Employees Division
International Brotherhood of Teamsters

vs.

Kansas City Southern Railway Company

ARBITRATOR: Gerald E. Wallin

DECISION: Claim denied

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- 1 The dismissal of Trackman LaKendrick D. Houston for violation of General Code of Operating Rules 1.4, 1.6, 1.9, 1.25 and System Special Instructions Rule 1.6 for misappropriation of company material and credit by allegedly selling gasoline purchased with a stolen Kansas City Southern Credit Card and Credit Card pin number is based on unproven charges, unjust, unwarranted and in violation of the Agreement (System File A 09 07 09/K0409-6918).
2. As a consequence of Part 1 above, Mr. Houston’s personal record shall be cleared of the charge immediately and he shall be made whole by returning him to service and paid for any and all time lost as a result of the investigation.”

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

Claimant’s employment was terminated for the reasons expressed in the foregoing Statement of Claim. At the time of the Carrier’s disciplinary action, claimant had more than five years of service. The record does not establish that he had any prior related disciplinary incidents.

The Board’s review of the investigation transcript does not reveal any procedural irregularities of significance. Moreover, the record does not establish any proper basis for striking or discounting any of the evidence and testimony developed during the investigation.

Accordingly, the record is found to contain substantial evidence in support of the Carrier’s

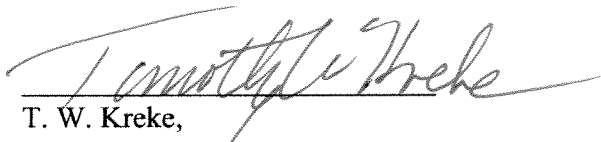
determination that claimant was guilty of the misconduct for which he was charged. Given the nature of the conduct involved, the Carrier's decision to terminate claimant's employment was not unreasonable.

AWARD:

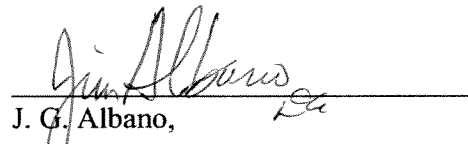
The Claim is denied



Gerald E. Wallin, Chairman
and Neutral Member



T. W. Kreke,
Organization Member



J. G. Albano,
Carrier Member

Date: Jan. 20, 2011