

Award No. 45
Case No. 45

Public Law Board No. 2203

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employes
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

(a) The Carrier violated the Rules Agreement, effective December 16, 1945, as amended, particularly Rules 5-A-1 and 5-E-1, when it assessed discipline of dismissal on Truck Driver, H. L. Murray, Central Region, Pittsburgh, Pennsylvania, on June 6, 1977.

(b) Claimant Murray's record be cleared of the charge brought against him on June 6, 1977.

(c) Claimant Murray be restored to service with Seniority and all other rights unimpaired and be compensated for wage loss sustained in accordance with the provisions of Rule 6-A-1(d), with restoration of benefits.

FINDINGS:

On June 3, 1977, the same day he was assigned

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to a Fuel Truck Driver position, claimant purchased gasoline for his personal vehicle and charged the purchase amounting to \$8.74 to the Carrier.

Claimant's explanation was that when he left work on June 3, a Friday, no one was "around" and he needed gas to get home. He testified that he intended to repay the money.

Pilfering, whatever form it may take, is a serious offense, particularly in the railroad industry where farflung operations make it necessary to rely in large measure on the honesty and good faith cooperation of employees. There are many cases where employees' dismissals have been sustained, and properly so, for thefts of less money than is involved in the present case.

We would not substitute our judgment for that of Carrier in this matter if the record was free from doubt. However, there is some question as to whether claimant really intended to defraud Carrier. He appears to have never concealed the fact that the gas was purchased for his own automobile. While the charge against him is "Misuse of company credit card," he never had a credit card issued to him or in his possession; we are mindful, however, that he used the credit system to obtain the gasoline.

In the light of all the circumstances of this case, we will reduce the discipline to a lengthy suspension without pay. The loss of compensation involved will emphasize

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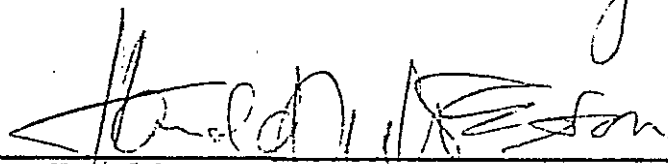
to employes that their conduct insofar as charging purchases to Carrier is involved must be beyond reproach.


No prejudicial procedural error has been committed by Carrier and claimant was accorded all rights of due process.

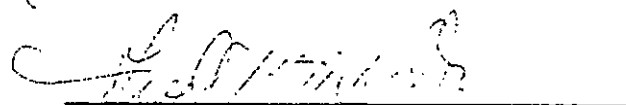
AWARD: Claimant to be reinstated without back pay.

Award to be effective within 30 days.

Adopted at Philadelphia, Pa., *January 11, 1980.*
~~1979.~~


Harold M. Weston, Chairman


Carrier Member
Disagreeing


Employee Member