

PUBLIC LAW BOARD NO. 2774

Award No. 125

Case No. 125

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Atchison, Topeka and Santa Fe Railway Company

STATEMENT
OF CLAIM

- "1. That the Carrier violated the provisions of the current agreement when it dismissed Trackman C. W. Neal without first according Mr. Neal a fair and impartial hearing, said action being in abuse of discretion and unduly harsh and arbitrary in light of the testimony adduced at the investigation.
2. That the Carrier now reinstate Mr. C. W. Neal with seniority and all other rights restored unimpaired and compensation for all time lost."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant herein was charged with misappropriation of a series of items constituting Company property without prior authority. Specifically, he was charged with theft of that property. Following an investigation, he was dismissed from service.

Petitioner insists, first, that claimant was not accorded a fair investigation and, secondly, that the removal of the items in question was not for personal gain, according to the testimony, since they were not of significant value. For that reason, the Organization alleges that the discipline assessed was excessive and in abuse of discretion.


Carrier maintains that claimant was properly found guilty of having in his possession for personal use Company property and, in view of his past record,

removal from service for his acts was entirely appropriate.


A review of the transcript of the proceedings involved in the investigation of claimant does not support the allegation that he was not accorded a fair trial. There is nothing in the record to indicate that the investigation was improper in any respect. Concerning the nature of the discipline in this instance, misappropriation of Company property which claimant admitted in a signed statement he had done, as well as in his testimony, is the most serious transgression one could conceive of in an employment situation. There is no basis for the assertion that the measure of discipline was inappropriate. The discipline was well within the discretion of Carrier and in no sense can be considered to have been arbitrary or capricious. The claim must be denied.

AWARD

Claim denied.


I. M. Lieberman, Neutral-Chairman


G. M. Garmon, Carrier Member


C. F. Foote, Employee Member

Chicago, Illinois

April 30, 1985