

PUBLIC LAW BOARD NO. 3445

Award Number: 1

Case Number: 1

PARTIES TO DISPUTE

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
And

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM

Track Repairman, R.G. Jackson, Route 5, Claover, South Carolina, 29710, was dismissed from service for allegedly misusing a Southern Railway credit card on December 14, 1981. Employee request pay for time lost with vacation rights and seniority rights unimpaired.

FINDINGS

By letter dated December 17, 1981, Claimant was notified that he was being charged with misuse of a Southern Railway vehicle credit card placed in his care. A hearing was held in order to investigate the charges on December 22, 1981. On the basis of the evidence adduced during the investigation, Carrier determined that Claimant had in fact misused the credit card, and that he should be dismissed. The Organization filed a claim protesting Carrier's action and requesting that Claimant be returned to service with pay for time lost and seniority and all other rights unimpaired. The claim was denied at all levels of appeal on the property, and the Organization then submitted the matter to this

Board for resolution.

The issue to be decided in this dispute is whether Claimant was dismissed for just cause; and if not, what should the remedy be.

The record shows that at the time of the investigation, Claimant was assigned Carrier vehicle Number 80574, a two-ton stake truck with a welding rig and other repair equipment attached. Claimant was also assigned a Southern Railway credit card for the purpose of purchasing fuel for that vehicle. At the investigation, Claimant admitted using the Southern Railway credit card to purchase \$45.75 worth of gasoline for his personal vehicle, a two-tone beige pickup truck. Claimant also testified that he understood the Southern Railway credit card was to be used only for the purchase of fuel for the Carrier vehicle assigned to him.

The Organization argues that the penalty of dismissal was overly harsh since Claimant was honest throughout the investigation and had a good work record prior to this incident.

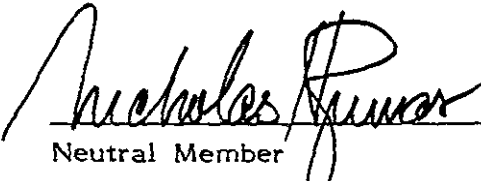
This Board cannot overturn the discipline imposed by Carrier absent a showing that Carrier's action constituted an abuse of discretion. Concerning Claimant's work record, it is well established that dismissal is proper for an

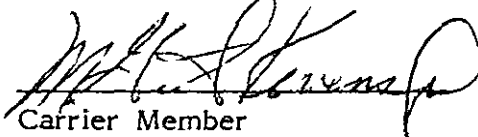
offense involving dishonesty, even if it is the culpable employee's first offense of any kind. Claimant's honesty during the investigation constitutes a mitigating circumstance, but it does not warrant modification of the discipline imposed. Carrier is not obligated to retain an employee in service who has proven himself untrustworthy.

For the reasons stated above, it is the opinion of this Board that the decision to dismiss Claimant was not arbitrary, capricious, or an abuse of Carrier's managerial discretion. Accordingly, the claim must be denied.

AWARD

Claim denied.


Neutral Member


Carrier Member


Organization Member

DATE:

Nov. 13, 1974