

PUBLIC LAW BOARD NUMBER 3445

Award Number: 16

Case Number: 16

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

And

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM:

Track Laborer, Marion McElwaine, 648 Kilborne Drive, Gastonia, North Carolina, was dismissed from service for allegedly altering an Employee Transportation Railroad Request Form for his sister to use. Employees request he be reinstated for with pay for lost time, with seniority, vacation and all other rights unimpaired.

FINDINGS:

During a routine audit of receipts submitted by Amtrak, Carrier discovered that on August 30, 1982 a form had been submitted on behalf of Claimant for travel between Charlotte, North Carolina and Philadelphia, Pennsylvania. Claimant was authorized to travel no farther than Charlottesville, Virginia, and further investigation revealed that a person other than Claimant had used the authorization to travel to Philadelphia on Amtrak.

As a result of these discoveries, Claimant was charged with altering one of Carrier's Employee Transportation Railroad Request Forms, and with assisting an individual other than an employee to use the form to travel from Charlotte, North Carolina to Philadelphia, Pennsylvania. A hearing was held in order to investigate the charges, and on the basis of the evidence adduced at the investigation, Carrier determined that Claimant was culpable as charged, and that he should be dismissed.

The Organization filed a claim protesting Carrier's actions and requesting that Claimant be returned to service with seniority and all other rights unimpaired, and with pay for all time lost. 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.

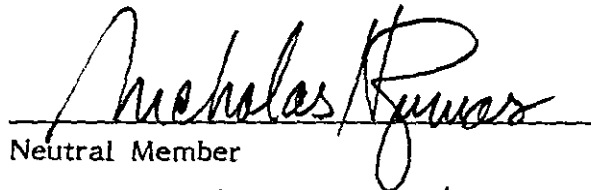
At the hearing, Claimant testified that he changed the destination on Employee Transportation Railroad Request Form #620, to Philadelphia, Pennsylvania, and exchanged it at an Amtrak ticket window for a standard Amtrak passenger ticket. He then presented the ticket to his sister so she could use it to travel to Philadelphia. Claimant also testified that the Form #620 had been

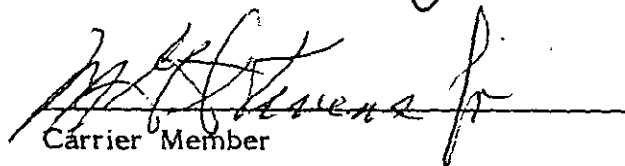
issued to him for his personal use. Further, Claimant admitted that he knew the form was to be used only for his personal transportation to and from work, and stated that he would repay the value of the ticket (\$77.00) by January 10, 1983 (the hearing was held December 28, 1982). As of the date the dispute was submitted to this Board, Claimant had not repaid the requisite amount.

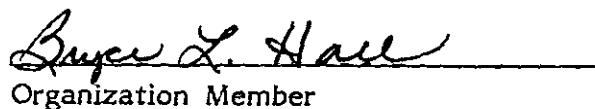
From the foregoing, it is clear that Claimant altered the Form #620 for the use of his sister, and that such alteration and use, without reimbursement of Carrier by Claimant, constituted a misappropriation of Carrier funds. This was a dishonest act for which dismissal would be warranted even if Claimant had been an employee of long standing. Accordingly, the claim must be denied in its entirety.

AWARD:

Claim denied.


Neutral Member


Carrier Member


Organization Member

Date:

