

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees  
vs.  
Norfolk and Western Railway Company

STATEMENT OF CLAIM:

1. Carrier violated the effective Agreement by dismissing Machine Operator Twilley on October 1, 1976, on unproven charges, such dismissal was unjust and unwarranted.

2. Claimant be restored to service with all rights and privileges unimpaired and paid for all time loss suffered.

FINDINGS: This Board upon the whole record and all the evidence finds that:

The Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as amended.

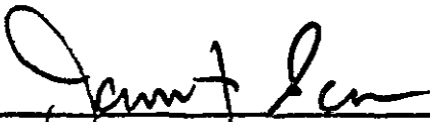
OPINION:


The record of this case sufficiently demonstrates that the Claimant did: (1) either break-in or assist in the break-in of Carrier property, (2) utter a false basis for his presence when found to be there and (3) played a role in the misappropriation and improper, unauthorized use of a Carrier gasoline credit card. For such action he was discharged from service. The basis for the Organization's defense here is that the Claimant was somehow

coerced into such action -- a claim that goes unproven on the record -- and that the penalty of discharge was too severe. We find no support for this request for leniency. The Carrier has a right to expect its employees to adhere to reasonable rules of conduct, even if they might not be familiar with posted Rules. The Claimant's actions, by his own admission on the record, were deliberate and with forethought. As to the Organization's claim that the hearing was somehow out-of-bounds of proper procedure, we find no basis to affirm this defense, either. We find no basis to conclude that the Agreement was violated by the Carrier's action.

AWARD:

Claim is denied.

  
James F. Scearce  
Neutral Member

  
G. C. Edwards  
Carrier Member

  
Fred Wurpel, Jr.  
Organization Member

Dated this 1<sup>st</sup> day of Feb, 1980 at Cleveland, O.