

PUBLIC LAW BOARD NO. 3845

PARTIES TO THE DISPUTE

Brotherhood of Maintenance of  
Way Employees

and

Norfolk and Western Railway  
Company (Lake Region)

Case No. 13  
Award No. 13

STATEMENT OF CLAIM

"Claim of the System Committee of the Brotherhood that:

- (1) The dismissal of Welder B. D. Reed for alleged dishonesty was without just and sufficient cause and excessive discipline. [Organization File MW-MUN-80-18]
- (2) Welder B. D. Reed shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered."

OPINION OF THE BOARD

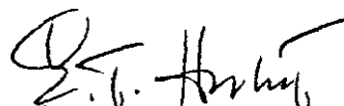
Claimant, whose prior record with Carrier extended to nearly ten years of unblemished service, admitted that he placed a new Carrier-owned battery in his privately-owned motor vehicle, on or about May 29, 1985. Claimant's admission of this deed came about only after being confronted by a Carrier Police and Special Services Officer, after the passage of nearly three months and after, according to testimonial evidence, Claimant initially denied any knowledge of the matter.


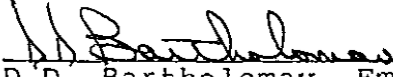
Under the circumstances, it is difficult to credit Claimant's defense that the transfer of the battery to his privately-owned vehicle was for the benefit of Carrier. Claimant's argument is based on the fact that he used his own vehicle for heavy-duty work on behalf of Carrier. The evidence adduced reveals that while Carrier does have a practice of permitting or encouraging the use of employee vehicles for Carrier purposes in certain circumstances, the policy is not mandatory and the employee is reimbursed for incurred expenses. Claimant here did not seek reimbursement for the expense of a new battery but simply appropriated, or rather, given the facts of this case, misappropriated a battery, the property of Carrier.

There is substantial credible evidence in the record to support a finding that Claimant's conduct was dishonest and his consequent dismissal from service cannot, therefore, be regarded as unreasonable or excessive discipline. The Board concludes that the hearing was both fair and impartial and that Claimant was afforded full due process.

AWARD

Claim denied.

  
E.T. Herbert, Neutral Member

   
W.L. Allman, Jr., Carrier Member D.D. Bartholomay, Employee Member

Date: April 13, 1987