

NATIONAL TRANSPORTATION

PUBLIC LAW BOARD NO. 4104

AUG 9 4 24 PM '80

Case No. 24

PARTIES TO DISPUTE:

Brotherhood of Maintenance of
Way Employees

vs.

Burlington Northern Railroad

STATEMENT OF CLAIM: "Claim of the System Committee of the
Brotherhood that:

1. The dismissal of Work Equipment Operator K.R. Kennedy for
alleged 'violation of Rules 580 and 564... for your misuse of
company local purchase order envelopes' was unwarranted,
unreasonable without just and sufficient cause and in violation of
the Agreement. (System file Work Equip/Gr.MWA-83-7-12B).

2. The Claimant shall be reinstated with seniority
unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: This dispute concerns the dismissal of Work
Equipment Operator K.R. Kennedy for "alleged misuse of company
purchase orders at the Plano Auto Parts Store, Plano, Illinois,
October 11, 1982."

The facts of this case are similar to those stated in Award
No. 23 of this same Board. Claimant herein was also allegedly
involved in the purchase of unauthorized items and subsequently
covering up such purchases.

The arguments raised by the Organization concerning alleged
procedural violations, as well as a discussion of the merits are
the same as those raised in the proceedings of Award No. 23.

The transcript clearly established Claimant's guilt. As to
the penalty imposed, we do not believe that dismissal was arbitrary
or capricious. It was not excessive. Thus, we will deny the claim
in its entirety.

FINDINGS: The Public Law Board No. 4104 upon the whole record and all of the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934;

That the Public Law Board No. 4104 has the jurisdiction over the dispute involved herein; and

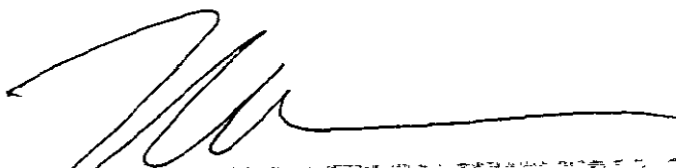
That the Agreement was not violated.

AWARD:

Claim denied.


P. Swanson, Employee Member


E. Kallinen, Carrier Member


Martin F. Scheinman, Neutral Member

July 31, 1990