

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
INDIANA HARBOR BELT RAILROAD COMPANY

Case No. 10

Dispute: Claim of the Brotherhood:

That the dismissal of B & B Carpenter Mark Hajduk on October 2, 1987, as a result of the investigation of September 30, 1987, be stricken from his record and that he be reinstated to service and compensated for all time lost.

Findings:

Claimant was employed as a Bridge and Building Carpenter by Carrier. On September 18, 1987, Claimant was instructed to attend a hearing:

to determine the facts and your responsibility, if any, in connection with your being observed by IHB Police officers at approximately 6:10 a.m. on Tuesday, September 15, 1987, dispensing gasoline from the Company gasoline pump into your personal vehicle, a 1978 Toyota pickup truck, license #333874, at Norpaul Yard in Franklin Park, Illinois.

The investigation was held on September 30, 1987, and as a result, Claimant was dismissed from service. The Organization thereafter filed a claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of theft when he pumped at least ten gallons of Company gasoline into his personal pickup truck without authority. It is clear that he had no permission to do that and therefore was guilty of violating the Carrier Rules D and L dealing with theft.

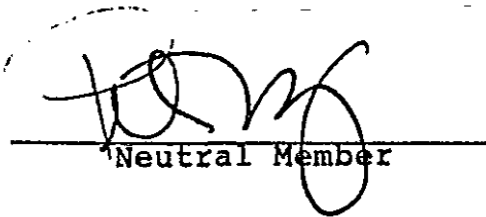
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our

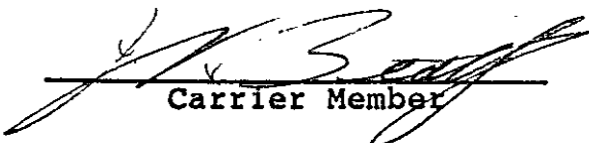
attention to the type of discipline imposed. This Board will not set aside a carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary or capricious.

There is no question that theft within the railroad industry is a very serious problem and a major offense. Employees in the railroad industry are often terminated for theft, even on the first offense. This Board cannot see any reason to amend the discipline issued to the Claimant. Therefore, the claim must be denied.

AWARD

Claim denied.


Neutral Member


Carrier Member


Organization Member

Date: 7-27-80