

BEFORE PUBLIC LAW BOARD NO. 6239

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

And

CSX TRANSPORTATION

Case No. 16

STATEMENT OF CLAIM:

Appeal of dismissal of Claimant A. W. Hill as a result of investigation held on July 20, 2000, in connection with Claimant's alleged unauthorized use of the Carrier's Corporate Lodging Card.

FINDINGS:

Claimant A. W. Hill was employed by the Carrier as a trackman at the time of this claim.

On July 7, 2000, the Carrier notified the Claimant to appear for a formal investigation to determine the facts and place responsibility in connection with his unauthorized use of the Carrier's Corporate Lodging Card.

After one postponement, the hearing took place on July 20, 2000. The Claimant was not present for the hearing. On August 8, 2000, the Carrier notified the Claimant that he had been found guilty of the charge brought against him and that he was being dismissed from the service of the Carrier.

On August 17, 2000, the Organization filed a claim on the Claimant's behalf, arguing that the Claimant should be returned to service with pay for time lost and with his

personnel file being cleared of all matters relative to the incident. The Carrier denied the claim.

The Carrier argues that the transcript proves that the Claimant was afforded a fair and impartial hearing and contains sufficient, credible evidence to conclude that the Claimant was guilty of the charge against him. The Carrier maintains that the unauthorized use of a Corporate Lodging Card is a serious matter and will not be tolerated by the Carrier. The Carrier claims that the Claimant does not have respect for Carrier rules and policies since he elected not to attend the formal investigation.

The Organization argues that the Claimant was not present for the investigation, that the Organization's representative objected to the holding of the investigation in the Claimant's absence and was overruled by the Carrier, and that the Claimant had not received proper notice to appear for the investigation. The Organization maintains that the hearing could have been postponed until proper notice was received. In addition, the Organization asserts that there was no evidence whatsoever that the Claimant used the Carrier's Corporate Lodging Card inappropriately. The Organization claims that the Claimant was denied due process and that the investigation was not conducted in a fair and impartial manner.

The parties being unable to resolve the issues, this matter came before this Board.

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 violated

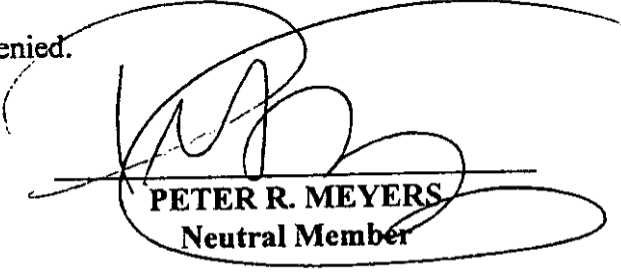
Carrier rules by using his CSXT Corporate Lodging Card without authorization. The record reveals that the Claimant was in a Super 8 motel in Riviera Beach on the morning of June 13, 2000. The Claimant used his corporate lodging card to pay for four days beginning on June 9, 2000. The Claimant was not working for the Carrier at the time and he admitted that he used the Carrier's Corporate Lodging Card to pay for his own personal use of the motel room. The payroll calendar verifies that the Claimant was not on the payroll on the dates in question.

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.

This case involves facts that are tantamount to theft, which justifies discharge in almost every case. This Board cannot find anything in this file to support any reduction of the discipline. We find that there was sufficient basis to terminate the Claimant's employment. Therefore, the claim must be denied.

AWARD:

The claim is denied.



PETER R. MEYERS
Neutral Member