

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD No. 6394

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES)	
DIVISION – IBT RAIL CONFERENCE)	Case No. 126
)	
and)	
)	Award No. 126
NORFOLK SOUTHERN RAILWAY COMPANY (FORMER)	
NORFOLK & WESTERN RAILWAY COMPANY))	

Richard K. Hanft, Chairman and Neutral Member
Scott M. Goodspeed, Carrier Member
Zachary J. Wood, Organization Member

STATEMENT OF THE CLAIM: “Claim of the System Committee of the Brotherhood that:

1. The Carrier’s discipline (dismissal) of Mr. J. Rose, issued by letter dated November 18, 2020, in connection with his alleged conduct unbecoming an employee when he used a company purchasing card for personal use and/or without authorization and when the Claimant allegedly used a company purchasing card in a manner that was in violation of Corporate Policy was capricious, excessive, harsh and unwarranted (Carrier’s File MW-PRN-20-11-ME-865 NWR).
2. As a consequence of the violations referred to in Part 1 above, Claimant J. Rose shall now be restored with all rights, privileges and back pay based on leniency.”

FINDINGS:

Upon the whole record and all of the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended and this Board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject matter.

This Award is based on the facts and circumstances of this particular case and shall not serve as a precedent in any other case.

After thoroughly reviewing and considering the record and the parties’ presentations, the Board finds that the claim should be disposed of as follows:

Claimant in this matter was charged with conduct unbecoming an employee when he used a company purchase card for personal use and/or without authorization on March 20, 2020 at various times throughout the day.

In this Board’s immediately previous case, Public Law Board 6394, Case Number 125, this Board found that while there were charges made on the company purchase card that were unauthorized, those purchases were made as a result of negligence rather than intentional dishonesty. As such, this Board ordered the Claimant reinstated to service without

compensation for time out of service. These charges emanate from the same conduct at later dates, but prior to Claimant being charged for the first offenses.

In this matter, as in the prior Case No. 125, the Board is of the opinion that the charges were made on the purchase cards as a result of negligence and not intentional dishonesty. As such, the Board reaches the same conclusion and orders the Carrier to reinstate Claimant to service without compensation for time out of service.

Award:

Claim sustained in part and denied in part. The Carrier is directed to comply with this Award on or before thirty (30) days following the Award date below.



Richard K. Hanft, Chairman



Scott M. Goodspeed, Carrier Member



Zachary J. Wood, Employee Member

Dated at Chicago, Illinois, October 20, 2022