

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CSX TRANSPORTATION, INC.

Case No. 26

STATEMENT OF CLAIM:

Dismissal of A. T. Cooper, ID No. 14775, as a result of investigation held March 18, 1991, at Tampa, Florida.

FINDINGS:

Claimant A. T. Cooper was employed by the Carrier as a section foreman.

On March 7, 1991, the Carrier notified the Claimant that he was being held out of service effective that date in connection with the following charge:

You are hereby charged with conduct unbecoming an employee.

On March 7, 1991, at approximately 3:00 p.m., I observed you pumping gas into Red Griffis' personal car. He is a Welder for Roadmaster McAllister in Lake City. This was done at the Shell Station at corner of US-301 and US-100, Starke, Florida. The gas was being pumped from the same pump you used to fill Section Truck 75515.

On March 13, 1991, the Carrier notified the Claimant that he was to attend a formal investigation into the charges against him on March 18, 1991. The hearing was held on that date; and on April 5, 1991, the Carrier dismissed the Claimant from service on account that he had been found guilty of the charges against him. The Organization thereafter filed a claim on the Claimant's behalf, challenging his dismissal.

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

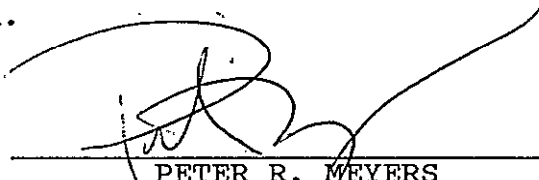
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of conduct unbecoming an employee when on March 7, 1991, he pumped gas into another employee's personal car, said gas to be paid for by the Carrier. The Claimant was required to fill the Carrier truck with the gasoline at the Shell Station and, instead, put gas from the pump into another employee's personal car. That type of conduct is clearly unbecoming an employee and amounts to theft from the Carrier.

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 Board has held on numerous occasions that theft from the Carrier is a sufficient basis upon which to terminate one's employment. This Board has reviewed the personnel record of the Claimant, which indicates that he has previously been terminated for rule violations and later reinstated. Moreover, he has received several suspensions, demerits, letters of caution, and reprimands. Given that previous record and the seriousness of the offense of which the Claimant was found guilty, this Board has no choice other than to deny the claim.

AWARD:

Claim denied.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Date: _____