

SPECIAL BOARD OF ADJUSTMENT NO. 280

Award No. 171
Case No. 258

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
St. Louis Southwestern Railway Company

STATEMENT
OF CLAIM

"CLAIM OF THE SYSTEM COMMITTEE THAT:

1. Carrier violated the effective Agreement when Track Foreman V. Mitchell was unjustly dismissed on June 9, 1981.

2. Claimant Mitchell shall now be reinstated to his former position with pay for all time lost, vacation rights, and all other rights unimpaired."

FINDINGS

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

Claimant herein has been employed by Carrier for twenty-three years and four months. He was employed as a Track Foreman at the time of his dismissal. Claimant was discharged by letter dated June 11, 1981, for unauthorized use of the Company credit card. Following a hearing requested by Claimant, the discharge was sustained by Carrier.

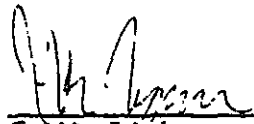
The transcript of the investigation reveals that Company's special agent found that Claimant had used the Company credit card to put gasoline into his own vehicle on at least two occasions. The information secured by the special agent was passed on to the local County Prosecutor's office and, following a trial in which Claimant pleaded guilty, the Judge fined the Claimant \$800 and ordered him to make restitution to Carrier herein in the amount of \$56.65, which is the total amount of the two credit card slips which had been discovered by the special agent.


Carrier's decision to terminate Claimant herein was amply justified by the record.

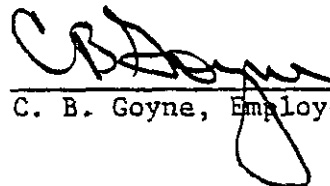
There is no doubt but that Claimant had indeed misused the Company's credit cards for his own advantage. The evidence is sufficient to establish that fact and, in addition, the Court found him guilty of that criminal offense as well. For an offense involving dishonesty, particularly that of misusing or misappropriating company property, dismissal is a wholly appropriate penalty. This has been upheld by many boards over years in this industry. It is particularly important, since in this instance the Claimant was a Foreman who obviously knew that what he was doing was wholly incorrect and dishonest. There is no basis for questioning the decision to terminate Claimant. The claim must be denied.

AWARD

Claim denied.


I. M. Lieberman, Neutral-Chairman


M. A. Christie, Employee Member


C. B. Goyne, Employer Member

Houston, Texas
May , 1983