

SPECIAL BOARD OF ADJUSTMENT NO. 280

Award No. 174
Case No. 261

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 Landis Harris was unjustly dismissed on August 25, 1981.
2. Claimant Harris shall now be reinstated to his former position with all seniority, vacation, and all other rights accruing to him unimpaired, in addition to all compensation lost commencing August 25, 1981, and to run concurrently until such time as he is allowed to return to duty."

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 was an extra Gang Foreman and had been employed by Carrier for approximately twelve years prior to his dismissal on August 25, 1981. On August 25, 1981, Carrier addressed a letter to Claimant in which he was dismissed from service for siphoning gasoline from a Company truck and putting it in his personal automobile. Claimant requested a hearing on his dismissal which was granted. Following the hearing, Carrier concluded that Claimant was guilty of the charges and the dismissal was affirmed.

The evidence at the hearing indicates that Claimant was observed siphoning gasoline from a Company vehicle and placing it in a can in the trunk of his car. This was freely admitted by Claimant as well. Subsequently he was observed pouring gasoline from a can into his gas tank in his personal automobile. Claimant alleged that the

gasoline that he used was gasoline that he had purchased and was not the gasoline that he had siphoned from the Company truck. He admitted, however, that he had intended to put the gasoline from the Company truck into his car. His sole defense was that he used this vehicle for Company business on occasion and was not reimbursed for such use.

It is clear from the evidence adduced at the hearing that there was substantial testimony in support of Carrier's conclusion that Claimant had improperly taken gasoline from the Company vehicle for his personal use. Even if one were to assume that the gasoline was not, indeed, used but was intended to be used for Claimant's personal vehicle, the evidence substantiates Carrier's claim that he did indeed steal Company gas for use in his personal vehicle.


It has long been established that dishonesty, regardless of the small cash value of the particular act, is intolerable and must be considered a serious offense on the part of any employer. Under circumstances such as this case, and there have been many involving the theft of gasoline, the penalty of dismissal has been considered appropriate. Such a penalty will not be upset unless it is considered to be arbitrary, unreasonable or unjust. In this case, in view of the dishonesty, whether indeed consummated or not, there is no basis for upsetting the penalty. The claim must be denied.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman


M. A. Christie, Employee Member
C. B. Goyne, Employer Member