

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 102

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO :
DISPUTE: NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) -
NORTHEAST CORRIDOR

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
that:

1. The dismissal of Track Foreman M. R. Thomas of NRPC Rules F and K on July 19, 20, 21, 25 and 26, 1988 was arbitrary, capricious, without just and sufficient cause, on the basis of unproven charges and in violation of the Agreement (System File NEC-BMWE-SD-2369D).
2. The Claimant shall be reinstated to service with seniority and all other rights and benefits unimpaired, his record cleared for all wage loss suffered."

FINDINGS:

Claimant M. R. Thomas was employed as a Track Foreman. Claimant was instructed to attend a hearing in connection with the following charge:

"Whereas of Tuesday, July 19, 1988, you personally approved and submitted time cards for yourself and T. H. Carey, trackman, for 1/2 hour of overtime and 3 hours of double time for payment of time that you and T. H. Carey were not rendering service. On Wednesday, July 20, 1988, you personally approved and submitted time cards for yourself and T. H. Carey, trackman, for 1/2 hour of overtime and 2 hours of double time for payment of time that you and T. H. Carey were not rendering service. On Thursday, July 21, 1988, you personally approved and submitted time cards for yourself and T. H. Carey, trackman, for 2 hours of overtime for payment of time that you and T. H. Carey were not rendering service. On Tuesday, July 26, 1988, you personally approved and submitted time cards for yourself and T. H. Carey, trackman, for 2 hours of overtime for payment of time that you and T. H. Carey were not rendering service."

The hearing was begun on September 27, 1988 and was reconvened on December 6, 1988 and as a result, Claimant was dismissed from service. The Organization thereafter filed a claim challenging his dismissal.

This Board has reviewed the procedural arguments raised by the

organization and we find them to be without merit.

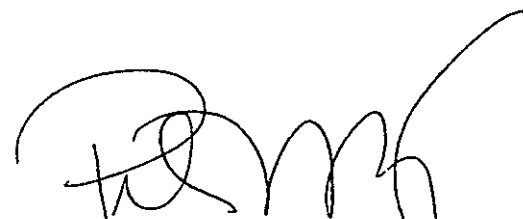
This Board has also reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of falsifying time cards on the dates in question.

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 the action to have been unreasonable, arbitrary or capricious.

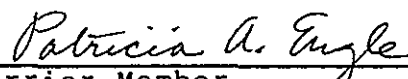
In the case at hand, the Claimant had 19 and 1/2 years of seniority. However, given the seriousness of the offense, which constitutes theft, this Board cannot find that the action taken by the Carrier in terminating the Claimant's employment was unreasonable, arbitrary or capricious. Numerous Boards have held that once an employee is found guilty of a dishonest act, the Carrier has a right to terminate that employment because it can never trust that employee to perform as an honest employee. This Board will not set aside the Carrier's decision to terminate the Claimant.

AWARD

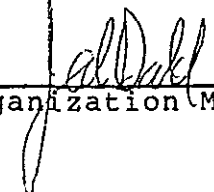
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 10-17-89