

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 56

Docket No. NEC-BMWE-SD-1748D

PARTIES: Brotherhood of Maintenance of Way Employees  
TO :  
DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant E. Lewis, Jr. was employed as a foreman by the Carrier at its T.L.S. Unit at Winslow Jct., New Jersey. On February 12, 1987, Claimant was notified to attend an investigation of the charges:

Violation of NRPC 2525, Rules of Conduct, Rule 'L' . . . which reads in part as follows:

Rule 'L' . . . Obeying Instructions . . . Employees must obey instructions, directions, and orders from Amtrak supervisory personnel and officers except when confronted by a clear and immediate danger to themselves, property, or the public. Insubordinate conduct will not be tolerated.

Specification #1: In that on Friday, January 23, 1987, at approximately 1:00 PM, in the vicinity of Penn Coach Yard, Philadelphia, Pennsylvania, you were given verbal instructions by 'A' Foreman (acting project engineer) Mitchell W. Moore, to secure Amtrak Van AB44195 at Penn Coach Yard, 30th Street Station, Philadelphia, Pennsylvania, and your failure to comply with same instructions.

Violation of NRPC 2525, Rules of Conduct, Rule 'K', which reads in part as follows:

Rule 'K' . . . Company Property . . . Employees will not . . . waste Amtrak property. Theft, misappropriation, or use for personal gain of Amtrak funds, property, or services, is prohibited. Employees must be specifically authorized to use the company's credit or receive or pay out money on the company's account. Employees must use Amtrak funds, property, services, and the services of other employees with care and economy and protect them from theft or abuse by others.

Specification #2: Contrary to above referenced instructions, you and fellow employees used Amtrak Van #AB44195 from Penn Coach Yard, Philadelphia, Pennsylvania, to Abingdon, Maryland without property (sic) authority and used Amtrak oil credit card for the purchase of fuel without authorization.

The hearing was held on February 19, 1987, and as a result, Claimant was assessed a thirty-day suspension and a six-month disqualification

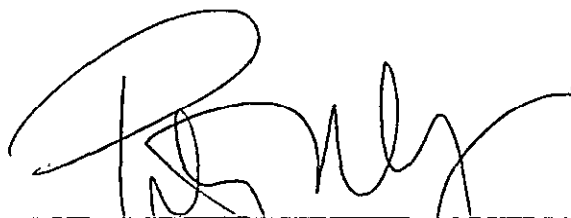
as foreman. The Organization thereafter filed a claim on Claimant's behalf, challenging the assessed discipline.

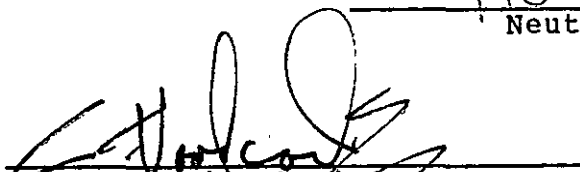
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating both Rule L and Rule K.

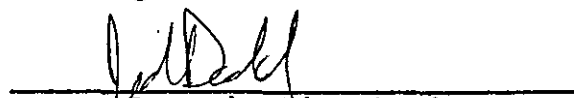
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed by the Carrier. In this case, the Claimant received a thirty (30) day suspension and a six (6) month disqualification as foreman. We can see nothing unreasonable or arbitrary about that penalty, given the nature of the offenses for which the Claimant was found guilty. Therefore, the claim must be denied.

Award:

Claim denied.

  
\_\_\_\_\_  
Neutral Member

  
\_\_\_\_\_  
Carrier Member

  
\_\_\_\_\_  
Organization Member

Date: 4-12-88