

SPECIAL BOARD OF ADJUSTMENT NO. 280

Award No. 187

Case No. 274

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 Welder-Foreman J. T. Pevey was unjustly dismissed by letter dated February 7, 1983.
2. Claimant Pevey shall now be reinstated with pay for time lost, with all seniority and other rights restored unimpaired, commencing February 7, 1983, to run concurrently until such time as he is reinstated."

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.

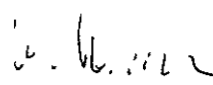
The claimant herein had been employed by Carrier for approximately nine years and was a welder-foreman. On February 7, 1983, claimant was dismissed verbally, followed by a written letter indicating that he was discharged for using a Company telephone credit card number without authorization during the months of September through December of 1982. The evidence indicates that claimant secured the Company's credit card number from another employee and both he and his wife used that number to make long-distance telephone calls, aggregating approximately \$200. Further, it appears that a bench warrant was issued for his arrest on charges for this action, and he ultimately was found guilty, after pleading such, to a misdemeanor and was fined \$150 plus court costs and required to make restitution to the Carrier.

Petitioner argues that the penalty of dismissal in this instance was excessive. The Organization argues that claimant's service and the nature of the problem that he had (which was caused by some personal problems) indicated that the penalty of dismissal was not warranted under all the circumstances; it was not commensurate with the offense. Carrier argues that claimant was clearly guilty of an offense which involved either stealing or fraud, as one might interpret it, and clearly there was no choice but to dismiss him under the circumstances.

The Board finds that the nature of the dishonest acts of claimant required severe discipline. There is no question but that his actions were fraudulent and improper and required a severe penalty. The Board can find no basis for leniency (which is not its prerogative) and clearly the penalty of dismissal in this instance was justified by the nature of the offense.

AWARD

Claim denied.


I. M. Lieberman, Neutral-Chairman


C. B. Goyne, Carrier Member


M. A. Christie, Employee Member

Houston, Texas
April 30, 1984