

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 28
Docket No. 32

PARTIES: Brotherhood of Maintenance of Way Employees.
TO :
DISPUTE: Chicago and North Western Transportation Company.

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

- (1) The dismissal of Trackman W. G. Galinski for alleged unauthorized use of Carrier's Bell Telephone at Watertown, Wisconsin, was without just and sufficient cause and excessive. (Organization File SD-4042; Carrier File 81-84-12-D).
- (2) Claimant W. G. Galinski shall be allowed the remedy prescribed in Rule 19(d).

FINDINGS:

This Board, upon the whole record and all the evidence, finds and holds that the employee and the Carrier involved, are respectively employee and Carrier within the meaning of the Railway Labor Act as amended, and that the Board has jurisdiction over the dispute herein.

Claimant was employed as a trackman and had been in Carrier's service about three years. At the time of the occurrence giving rise to the dispute herein, he was working on the tie gang at Watertown, Wisconsin. On September 1, 1983, he was notified to attend formal hearing at 10:00 A.M., Thursday, September 8, 1983, on the charge:

"To determine the facts in connection with your responsibility for your unauthorized use of the Company's Bell telephone on July 21, 1983, August 1, August 5 and August 17, 1983, at Watertown Camp Car while you were employed as Trackman at Watertown on the Wisconsin Division."

The investigation was postponed by agreement and was conducted beginning at 11:43, September 14, 1983. A copy of the transcript of the investigation, or hearing, has been made a part of the record.

In the investigation, or hearing, there was substantial evidence, including claimant's statement, that while working in the tie gang at Watertown, claimant used the Company's Bell telephone, in violation of instructions, to make several long distance telephone calls, including some to Tacoma, Washington. The charge for the calls made by claimant

amounted to \$48.72. Claimant admitted making the calls, and that he was aware of a letter posted near the telephone that the telephone was not to be used for personal business. Claimant was removed from service on September 23, 1983.

The only possible basis for disturbing the disciplinary action of the Carrier would be on the basis of leniency. However, the Board recognizes that leniency is a matter between the employee and the Carrier, and addresses itself to the Carrier and not to the Board.

A W A R D

Claim denied.

Paul C. Carter
Chairman. Neutral Member

John D. Crawford
Carrier Member

H. B. Harper
Labor Member

Dated Sept. 17, 1984.