

SPECIAL BOARD OF ADJUSTMENT NO. 936

Parties
to the
Dispute

:	Brotherhood of Maintenance of Way Employes	:
:	vs.	Case No. 2
:	Norfolk and Western Railway Company	Award No. 2
:	(Lake Region)	
:		

STATEMENT OF CLAIM

- (1) The dismissal of Hoisting Engineer C. R. Bartlett was without just and sufficient cause and in violation of the Agreement. [File No. MW-BVE-80-11]
- (2) Hoisting Engineer C. R. Bartlett shall be afforded the remedy prescribed in Rule 22(e).

OPINION OF THE BOARD

Claimant C. R. Bartlett was employed by Carrier as a Hoisting Operator. At the time of his dismissal from service, he had 23 years of service with Carrier. On January 31, 1980, on advice of his legal counsel, he pleaded guilty to a charge of theft, admitting that he had taken a case of toilet paper from a Norfolk and Western Box Car to be used in his camp car. As a result of this plea, Claimant was fined \$500.00 and given a six-month suspended sentence.

As a result of that court action, Claimant was charged by Carrier

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with stealing. An investigation was held on July 7, 1980. Claimant was found guilty as charged and dismissed from Carrier's service.

This Board has carefully reviewed the record of this case and has concluded, based on the total record, that while Claimant was guilty as charged, dismissal from service in this instance is more severe a penalty than is required for Carrier to make its point. Claimant should clearly understand, however, that any further incidents involving theft of Carrier's property will most assuredly guarantee his permanent discharge from service and possible confinement by civil authorities.

AWARD

Claimant shall be returned to work in his former position with seniority intact but without back pay for lost time or benefits. This award shall be implemented within 30 days of the date signed by this Board.

R. E. Dennis
R. E. Dennis, Neutral Member

S. C. Lyons - Carrier Dissents to the Award
S. C. Lyons, Carrier Member

H. G. Harper
H. G. Harper, Employe Member

MAY 10 1984