

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Form 1

Award No. 24283
Docket No. 43923
93-1-93-1-C-4598

The First Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Locomotive Engineers
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(Chicago and North Western Transportation
(Company

STATEMENT OF CLAIM:

"The Brotherhood of Locomotive Engineers - C&NW Transportation Company, General Committee of Adjustment requests this Division reinstate Engineer D. J. Mattson to the service of the C&NW with seniority and vacation rights and to fully compensate him for all time lost.

Claimant was dismissed by the C&NW following investigation on the following charge:

'Your responsibility in connection with your misuse of Company credit and, also, being dishonest when you took lodging at the Excel Inn at St. Paul, MN without proper authorization on April 4 and 18, 1992 when you signed in erroneously as M. J. Lovelett, a crew member of DWNSU and DWCTP respectively.'

Claim premised on CStPM&O Rule 38, copy attached as Employees' Exhibit A. Copy of transcript attached as Employees' Exhibit B."

FINDINGS:

The First Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was cited to attend an Investigation on a charge that he engaged in dishonest conduct when he took lodging at a Carrier designated layover facility on two dates in April 1992, without proper authorization. Review of the Investigation transcript indicates that adequate evidence was developed to demonstrate that Claimant was guilty of the charges placed against him.

Discipline was warranted. However, in the circumstances present, discipline of dismissal is excessive. Claimant's service record indicates that in nearly twenty years of Carrier service he has only been disciplined one time previously. This involved a derailment, ten years prior to the instant case, for which Claimant waived an Investigation and accepted 75 demerits.

Accordingly, the Board will order that the discipline of dismissal be modified to a suspension equal to the time out of service. Carrier is directed to immediately return Claimant to service, consistent with its return to duty physical practices, with seniority and other rights unimpaired but without pay for time lost.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 18th day of January 1994.