

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23525
Docket Number MW-23892

Paul C. Outer, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
{ Consolidated Rd. 1 Corporation

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

(1) The dismissal of Timekeeper M. W. Hampton for alleged 'Falsification of daily time cards' was without just and sufficient cause, arbitrary, capricious and wholly disproportionate to such a charge (System Docket 384).

(2) Timekeeper M. W. Hampton shall be reinstated with seniority and all other rights unimpaired and be compensated for all wage loss suffered."

OPINION OF BOARD: The record shows that claimant entered the service of the Carrier on April 12, 1972, as a trackman. At the time of the occurrence giving rise to the dispute herein, he held the position of timekeeper for ST 246 raising gang, Lake Seniority District No. 1.

On October 9, 1978, claimant was notified to attend a trial on October 17, 1978, on the charge:

"Falsification of dally time cards 9/5, 9/G, 9/7, 9/19, 9/26, 9/27, 1978."

The trial or investigation commenced as scheduled, with the claimant present and represented, but was recessed until October 19, 1978. A copy of the trial record has been made a part of the record before the Board.

The Board has carefully reviewed the entire record in the case. While we are convinced that claimant did not properly report his time, at the same time it is quite apparent that a loose practice has been permitted, which should be straightened out by the Carrier.

While claimant deserved discipline, permanent dismissal was excessive. We will award that he be restored to the service with seniority unimpaired, but without any compensation for time lost while out of service.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

that permanent dismissal was excessive.

A W A R D

Claims sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulsen

Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1982.

