

NATIONAL MEDIATION BOARD  
PUBLIC LAW BOARD NO. 5332

Parties to Dispute:	)	
	)	
INTERNATIONAL BROTHERHOOD OF	)	<u>AWARD</u>
ELECTRICAL WORKERS	)	
	)	Case No. 173
-and-	)	
	)	Claimant G. Kendrick
NORFOLK SOUTHERN RAILWAY	)	
COMPANY	)	

STATEMENT OF CLAIM:

“Claim on behalf of Electrician G. W. Kendrick in Roanoke, Virginia, for reinstatement with seniority rights unimpaired and made whole for all losses sustained. These begin the date removed from service, continue to the present date and include, but are not limited to, lost wages, vacation rights, health and welfare and insurance benefits, pension benefits such as Railroad Retirement and Unemployment Insurance, and any other benefits that would have been earned during the time Electrician Kendrick is unjustly withheld from Carrier’s service. We also request his personal record be cleared of the matter.”

FINDINGS:

The Board finds that the parties herein are Carrier and Employee as defined by the Railway Labor Act, as amended; that the Board has jurisdiction over this dispute; and that due notice of the hearing thereon has been given to the parties.

This dispositive facts underlying both this matter and companion Case No. 172 (Phillips), decided concurrently by the Board, are set forth in greater detail in the Phillips Award. There the Board sustained Carrier’s dismissal action of Claimant Phillips. For the reasons set forth therein, the Board likewise finds just cause for the termination of Claimant Kendrick.

Succinctly, the transcript of formal investigation conducted on June 29, 2017, demonstrated that Claimant Kendrick was responsible for repeatedly making false statements to management in connection with its investigation of incidents surrounding the development of a secret hideaway and placement of a camera and computer in the empty

powerhouse at the Roanoke Locomotive shop in mid-2017. Asked several times in the course of supervision’s investigation of matters under investigation, including on May 24 and June 7, 2017, whether he had anything to do with the placement of a camera and computer in the powerhouse or whether he been at the site during his working hours, Claimant persistently disclaimed responsibility for any involvement with the events at issue.

Ultimately confronted by videos recorded on Philips’ laptop, including one taken months prior to the time Philips alleged his laptop went missing and shot from an elevated position in the powerhouse, together with notice from management that Mr. Phillips had informed the Company that he had been in the powerhouse on breaks hiding with Claimant, Kendrick finally admitted that he had been there with Phillips without authorization, allegedly after completing his work.

The record establishes that as with Mr. Phillips, Claimant was away from his work assignment without authorization and made false and conflicting statements to his employer over the course of several months during its investigation into an extremely serious situation in May-June, 2017. The testimony in the transcript of the formal investigation before the Board with respect to both questions is clear and convincing. No employer should be required to tolerate employees being away from their work areas without cause or authorization. And of equal importance, employers have an absolute right to expect honesty from employees in response to their questions. Claimant’s conduct in this instance represents the type of serious workplace misbehavior commonly warranting the ultimate penalty of dismissal.

A W A R D

The Claim is denied.

Tom Owens  
Tom Owens *Dissent*  
Employee Member

James E. Conway  
James E. Conway  
Chairman and Neutral Member

Christopher Carr  
Christopher Carr  
Carrier Member

Dated: January 10, 2019