

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 8203  
Docket No. 8188  
2-SL-CM-'79

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: { System Federation No. 7, Railway Employees'  
Department, A. F. of L. - C. I. O  
(Carmen)  
{ Soo Line Railroad Company

Dispute: Claim of Employee:

1. Carman Daniel Slomski was unjustly dismissed from service, effective as of Tuesday, January 25, 1978 by Mr. Tepp, Shops Manager, Soo Line R.R. North Fond du Lac, Wisconsin, as a result of investigation held on December 19, 1978 when charged with violation of Rule (g) of Soo Line General Safety Rules.

2. Carman Slomski, claims that being removed from service indefinitely was too severe a penalty for the violation of Rule (g) and is now claiming to be reinstated back to work with seniority, vacation, insurance coverage and all benefits due to him as if he was working.

Findings:

The Second 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.

It is clearly substantiated in the record that Claimant did use intoxicants on November 19, 1977. On that foundation, the Carrier's action in this case cannot be faulted.

However, the parties have established an "Employee Alcohol and Drug Program", recognizing the adverse effects of chemical dependency problems experienced by employees, and have endeavored to combat such results through the implementation of this policy. The record before the Board indicates an attempt by the Claimant to correct his problem. Furthermore, Claimant does not have a record of prior disciplinary infractions.

The Board therefore, finds that permanent dismissal was excessive. Claimant should be restored to service with seniority and other rights unimpaired but without compensation for time lost, on the condition that

Claimant passes the usual return to duty physical and that Claimant enter and/or continue to secure adequate medical and rehabilitative counselling under the Alcohol and Drug policy toward resolution of his problem. It will be the Claimant's continuing responsibility to follow all such counselling. It should be clearly evident to the Claimant that failure to do so will inevitably lead to loss of his job through the imposition of further disciplinary penalties.

For action by the Board in similar circumstances, see Award No. 7613 (Lieberman) and 7636 (Van Wart).

A W A R D

Claim sustained to the extent indicated in the Findings, above.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By *Rosemarie Brasch*  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 12th day of December 1979.