

The Second Division consisted of the regular members and in addition Referee Wesley A. Wildman when award was rendered.

Parties to Dispute: { System Federation No. 114, Railway Employees'
Department, A. F. of L. - C. I. O.
(Electrical Workers)
{ Southern Pacific Transportation Company

Dispute: Claim of Employes:

1. That under the current Agreement, Motive Power and Car Department Electrician Ike R. Bias was unjustly treated when he was dismissed from service on July 28, 1977, following investigation for alleged violation of Rule "G" of the General Rules and Regulations of the Southern Pacific Transportation on July 8, 1977.
2. That, accordingly, the Carrier be ordered to:
 - (a) Restore the aforesaid employee to service, with all service and seniority rights unimpaired, compensate him for all time lost and with payment of 6% interest added thereto.
 - (b) Pay employe's group medical insurance contributions, including group medical disability, dental, dependents' hospital, surgical and medical, and death benefit premiums for all time that the aforesaid employe is held out of service.
 - (c) Reinstate all vacation rights to the aforesaid employe.

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.

On July 11, 1977, Electrician Ike R. Bias, Claimant was duly notified of a hearing to be held on July 13, 1977, in which he would be asked to answer charges regarding a claimed violation on July 8, 1977, of Rule G (prohibition of the use of intoxicants and of being intoxicated while on duty) of the General Rules and Regulations of the Carrier.

At the hearing, Carrier's two witnesses, a roundhouse foreman and a road foreman of engines, testified that after an error in his work had been detected, Claimant was found slumped over in an engine cab. The foremen testified that when called, Claimant came toward the two Carrier foremen exhibiting a staggered gait, bloodshot eyes, red face, thick-tongued speech, and breath smelling of alcohol. The foremen further testified that they then took Claimant into the office and told him he was being taken out of service for a violation of Rule G, which was read to Claimant at that time.

Claimant testified that his error on the job on the shift in question had been the result of a misunderstanding of the directions he had been given and that, subsequently, he had simply fallen asleep in an engine cab. He denied that he had been drinking and blamed his staggered gait on the fact that he makes an effort never to step on a rail. Finally, he testified to having "outside" problems of a very personal nature on which he did not elaborate.

It is the opinion of the Board that there is quite substantial evidence on the record for the finding by Carrier that Claimant was on duty in a seriously intoxicated condition.

Claimant is a thirty (30) year veteran with Carrier and has had, until recently, an excellent record. Indeed, both Carrier witnesses testified that Claimant usually does quite acceptable work and is normally a responsible employee.

Balancing a thirty (30) year, nearly unblemished employment record against one of the most serious conceivable infractions of a railroad working rule, we conclude that Claimant should be returned to service, but with no compensation for time lost.

Additionally, this Board wishes to state unequivocally that this decision must be understood by Claimant to represent a most severe and serious reprimand; any repetition by Claimant of the behavior for which he is being disciplined in this case will undoubtedly again result in his discharge. Claimant should anticipate that any such subsequent discharge for proved intoxication while on duty would undoubtedly be upheld by any subsequent Board should there be an appeal.

A W A R D

Claim sustained in part and denied in part as per findings.

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 11th day of June, 1980.