

Award No. 1658

Docket No. 1560

2-St.L SW-CM-'53

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Edward F. Carter when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 45, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement Car Inspector W. H. Walraven was unjustly suspended on July 21, 1951 and unjustly dismissed from the service effective August 2, 1951.

2. That accordingly the carrier be ordered to restore the aforesaid Car Inspector to service with seniority rights unimpaired and paid for all time lost retroactive to July 21, 1951.

EMPLOYEES' STATEMENT OF FACTS: W. H. Walraven, hereinafter referred to as the claimant, was employed by the carrier as a car inspector at Texarkana, Texas, with a seniority date of October 18, 1950.

Claimant's regular assigned hours were from 3:00 P. M. to 11:00 P. M., rest days, Thursday and Friday. On July 18, 1951 claimant reported for duty at approximately twenty minutes till three, and as he was suffering from an upset stomach and the effects of having taken a strong laxative, he attempted to get in touch with his foreman to lay off. Failing to locate the foreman, he finally, at approximately 3:15 P. M., contacted the lead man by phone, who advised him that he was trying to get an inspector to fill another assignment, and that if he would stay until he could get someone to relieve him, claimant could go. Claimant remained on the job and worked until 5:00 P. M., at which time Car Inspector J. A. Clark came to relieve him. During the time he was waiting for someone to relieve him, he had gone to the shanty after completing his inspection of cars set in, and was laying back in the doorway when Traveling Car Foreman Allen came by and asked him what was wrong. He replied that he was sick and had layed off, but that he had promised the lead man that he would stay until someone came to relieve him. He was putting a passenger car on line to charge the batteries when Car Inspector Clark arrived, and the relieving inspector assisted the claimant in finishing this task. After loaning this inspector his tools with which to work and leaving instructions for putting them in their proper place when he was through with them, he left the company premises.

On reporting for duty July 21, 1951, following his rest days of Thursday and Friday, claimant was handed a written notice dated that day, to report for investigation to begin at 10:00 A. M., Wednesday, July 25, 1951, for

Without further burdening the record, the carrier respectfully submits that the facts in evidence plainly show that the discipline was fully justified and that there is no possible grounds for reinstatement on any basis, and requests that the claim be denied.

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.

The parties to said dispute were given due notice of hearing thereon.

Claimant was dismissed from the service on August 2, 1951, for violation of the rule against the use of intoxicating liquors when reporting for work or while on duty. The claim is for reinstatement with seniority rights unimpaired and pay for all time lost since July 21, 1951.

The evidence in the case shows that Car Inspector W. H. Walraven reported for work on July 18, 1951 and shortly thereafter he called the Lead Car Inspector by telephone and asked to be relieved because of illness. Thereafter he was found lying on the floor of the car inspector's shanty. There is evidence that he was intoxicated when found. One witness stated his speech was uncertain; his tongue was thick and the smell of intoxicating liquor was present. The witness says claimant almost fell when he got up from the floor. Later in the evening, claimant was arrested for drunkenness and fined fifty dollars.

The testimony of claimant was that he was sick and that he had not been drinking before or while on duty. There is some evidence tending to corroborate parts of his story. While the evidence is in conflict, it is ample to sustain the charges made. The evidence adduced by the carrier shows that claimant was intoxicated to the extent he was unable to work or drive his car. His seniority as a car inspector dated from October 7, 1950. He had been working on this position less than ten months. He has no long record of faithful and efficient service to receive the consideration of this Board.

We can find no reason in the record to warrant us in interfering with the decision of the carrier. There being sufficient evidence in the record which, if believed, establishes the violation of the rules alleged to have been violated and there being no mitigating circumstances, the action of the carrier cannot be said to be arbitrary or unreasonable.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 20th day of March, 1953.