

Award No. 1886
Docket No. 1755
2-AT&SF-CM-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Lloyd H. Bailer when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY (Eastern Lines)**

DISPUTE: CLAIM OF EMPLOYEES: That under the current agreements Car Inspector Bennie B. Wold was unjustly dismissed from the service of the Carrier, effective at the close of his shift, on February 8, 1954, and that accordingly the Carrier be ordered to reinstate him to all service rights, including vacation rights unimpaired and any vacation pay to which he is entitled, with compensation for all time lost retroactive to the aforementioned date.

EMPLOYEES' STATEMENT OF FACTS: Bennie B. Wold, hereinafter referred to as the claimant, entered the service of The Atchison, Topeka & Santa Fe Railway System, hereinafter referred to as the carrier, at Corwith Shop, Chicago, Illinois, as a coach cleaner, February 11, 1931. He was subsequently assigned as a carman helper, car repairer, car inspector, on which assignment he was working from 3:30 P. M. to 11:30 P. M., Mondays through Fridays, with rest days Saturday and Sunday.

The carrier's master mechanic summoned the claimant to appear for a formal investigation at 1:30 P. M., January 15, 1954, on charges of alleged intoxication in the Corwith Trainyard at approximately 11:15 P. M., January 6, 1954, which is affirmed by copy of letter dated January 12, 1954, submitted herewith and identified as Exhibit A.

The investigation was held as scheduled and a copy of the transcript of evidence furnished the claimant by the carrier is submitted herewith and identified as Exhibit B.

Claimant has protested the accuracy and completeness of the transcript of evidence. The carrier nevertheless made the election through Master Mechanic Luke to dismiss the claimant from the service of the carrier and this is affirmed by copy of letter submitted herewith and identified as Exhibit C.

This dispute has been handled with the carrier up to and including the highest officer so designated by the company, with the result that he has declined to adjust it.

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.

Pursuant to formal investigation on the property, carrier found that Car Inspector Benny B. Wold had been intoxicated during his tour of duty on January 6, 1954 and accordingly dismissed him from the service. Organization contends the dismissal was unjust, that the evidence does not support the charge, and that claimant should be reinstated with all rights unimpaired, including compensation for time lost.

Rule 8 of carrier's "General Rules for the Guidance of Employees" reads:

"The use of intoxicants or narcotics by employes available for duty, or their possession or use while on duty, is prohibited."

Claimant Wold received a fair and impartial hearing. There is some conflict in the testimony there presented, but the weight of the evidence indicates claimant was intoxicated while on duty. Rule 8 was therefore violated. Claimant had knowledge of the rule. Carrier is within its rights in enforcing this unilateral regulation. See Award 1868, this Division.

We are unable to conclude that in assessing the penalty here involved carrier was arbitrary, capricious or guilty of bad faith. The claim must therefore be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 7th day of February, 1955.