

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. 2, Railway Employees'
(Department, A. F. of L. - C. I.O.
((Firemen & Oilers)
(Chicago and Eastern Illinois Railroad Company

Dispute: Claim of Employees:

1. That Laborer W. J. Davidson was unjustly dismissed by the Chicago and Eastern Illinois Railroad on September 23, 1975, following an investigation held on September 18, 1975.
2. That accordingly, the Chicago and Eastern Illinois Railroad be ordered to return Laborer W. J. Davidson immediately, to work with pay for all time lost, restoration of full seniority and all benefits he would have been entitled to.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Claimant was dismissed following a hearing held on September 18, 1975, where he was charged with being in no condition to perform properly his duties as a Laborer at Carrier's Dolton, Illinois Yard Center Diesel Facility at approximately 3:00 p.m. on September 3, 1975.

Review of the record finds overwhelming support for Carrier's contention that more than substantial evidence established the charge against Claimant. Testimony of several Carrier officers and a fellow employee established that Claimant had consumed an alcoholic beverage while on duty and on company property and that his physical condition was close to being in an intoxicated stupor. The odor of alcohol about Claimant was strong, he was unsteady on his feet, he spoke incoherently, and his speech was slurred.

Notwithstanding the fact that Claimant's condition was not verified by a laboratory finding, we conclude that there was substantial evidence upon which Carrier made a valid determination that Claimant was guilty. The effect of the use of either intoxicants or narcotics is well known, and expert verification is not required where the evidence is clearly substantial.

Considering the degree of discipline assessed, it is noted that in Claimant's relatively short, twenty-two month career, he had previously been assessed a ninety-day disciplinary suspension for habitual tardiness and absenteeism. Given this record and his short tenure of employment, we cannot fault the Carrier for concluding that this latter instance of unacceptable conduct fully justified the Claimant's dismissal.

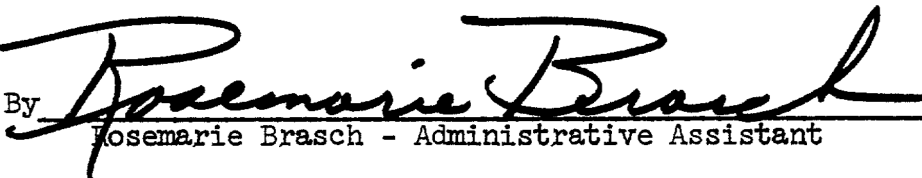
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 2nd day of December, 1977.