

The Second Division consisted of the regular members and in addition Referee Robert G. Williams when award was rendered.

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

Dispute: Claim of Employees:

1. That under the current agreement Carman K. L. Laird, hereinafter referred to as the Claimant, was unjustly deprived of his service rights and compensation when he was improperly discharged from service under date of March 3, 1975 after two (2) years and ten (10) months service with the Carrier.
2. That the Carrier be ordered to:
 - (a) Restore the aforementioned Claimant to service with all service and seniority rights unimpaired, and be compensated for all time lost retroactive to February 9, 1975 when he was removed from service.
 - (b) Grant to the Claimant all vacation rights.
 - (c) Assume and pay all premiums for hospital surgical and medical benefits, including all cost for life insurance.
 - (d) Pay into the Railroad Retirement Fund the maximum amount that is required to be paid an active employee for all time he is held out of service.

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 discharged, on March 3, 1975, following a hearing where he appeared under the charge of being under the influence of intoxicants while on duty in violation of Rule G.

Our review of the record discloses there was substantial evidence establishing that Claimant was under the influence of intoxicants while on duty at West Colton receiving yard on February 9, 1975 and thus, the charge was proven. We need not again repeat in this decision that this Board looks in disfavor of those employees who risk not only their own lives and safety, but the lives and safety of their fellow employees and the public by being under the influence of intoxicants while on duty. It is a serious offense meriting serious disciplinary action.

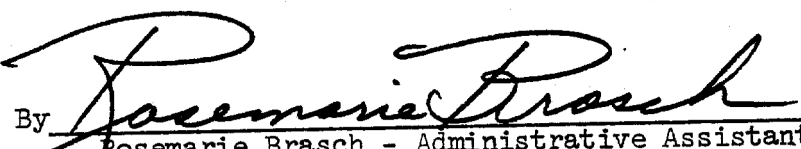
Having found substantial evidence against Claimant, we now must consider the appropriateness of the discharge penalty. Carrier, in its presentation to this Board, has attached certain documents which it states are germane to making this consideration. Without addressing that question, we find that since these documents were not made a part of the record of the claim during the handling on the property, we will not consider them. Considering Claimant's previous record, and the fact that this was his first Rule G violation in his almost three (3) years of service, we think that the discharge penalty was too severe. We accordingly order that Claimant be reinstated, with seniority unimpaired but without pay for time lost. In so doing, we want to impress upon the Claimant the seriousness of violations of Rule G, and remind him that this Board generally does not offer reinstatement to repeated violators of Rule G.

A W A R D

Claim sustained to the extent set forth in the opinion.

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 31st day of July, 1978.