

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

Parties to Dispute: ( System Federation No. 91, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Firemen & Oilers)  
(  
( Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. That under the Current and Controlling Agreement, Service Attendant Arthur Stevenson was unjustly dismissed from the service of the L&N Railroad Company on July 19, 1976, after a formal investigation was held in the office of Mr. R. L. Spain, Staff Asst. to Shop Superintendent.
2. That accordingly Service Attendant Arthur Stevenson be restored to his assignment at South Louisville Shops with all his seniority rights unimpaired, vacation, Health and Welfare, Hospital and Life Insurance rights be paid and compensated for all lost time, effective July 20, 1976 for each and every day Mr. Stevenson is not permitted to protect his assignment at the pro-rata rate of pay.

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.

The allegations raised in this case are indeed serious.

Claimant was charged with being under the influence of alcohol while on duty on or about 8:00 A.M. on Tuesday, May 11, 1976 at the Union Station, Louisville, Kentucky. He willingly submitted to a sobriety test that morning at the Louisville General Hospital, where it was professionally opined that he was slightly under the influence of alcohol.

An investigative hearing was held on May 28, 1976 pursuant to Agreement Rule 32 to determine the merits of the specifications. Carrier found claimant guilty of the asserted charges and peremptorily dismissed him from service.

This Board is certainly mindful of the potential dangers of on duty alcoholic consumption and will eschew detailing the litany of cases explicating this problem. We believe that the penalty imposed when judiciously measured against claimant's more than thirty (30) years satisfactory tenure with this industry was unduly excessive.

We concur with Carrier that some form of discipline was required given the nature of this misconduct offense. We do not agree however, that permanent dismissal was a commensurate penalty.

We will reinstate claimant to his position but without back pay.

A W A R D

Claim sustained to the extent expressed in this finding.

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 1st day of November, 1978.