

The Second Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

Parties to Dispute: ( System Federation No. 21, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Firemen & Oilers)  
(  
( Southern Railway Company

Dispute: Claim of Employes:

1. That under the Current and Controlling Agreement, Laborer C. L. Havis was unjustly dismissed from the service of the Southern Railway System on January 14, 1976, after a formal investigation was held in the office of Manager Chattanooga Diesel Shop on January 8, 1976.
2. That accordingly, Laborer C. L. Havis be restored to service at Chattanooga Diesel Shop with all seniority rights unimpaired, vacation, Health and Welfare Insurance be paid and compensated for all lost time, effective January 3, 1976, when Mr. Havis was removed from service by Mr. A. W. Wyatt, General Foreman, Southern Railway System, Chattanooga Diesel Shop, Chattanooga, Tennessee.

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.

Parties to said dispute were given due notice of hearing thereon.

Claimant, C. L. Havis, was employed by Carrier as a Laborer in the Diesel Shop at Chattanooga, Tennessee. On January 3, 1976 he was approached by his Foreman near the locker at the start of his 3:00 p.m. - 11:00 p.m. shift. During a discussion of proper reporting time Claimant became belligerent. The Foreman smelled alcohol on Claimant and when questioned Claimant admitted that he had been drinking before reporting for work. Claimant was told to contact his representative and report for a "preliminary investigation". No duly accredited representative was working at that time, but Claimant did not seek a postponement and instead asked to be represented by a fellow worker. A preliminary investigation was held during which Claimant admitted drinking alcohol before reporting for work and refused to

submit to a blood alcohol test. Following that investigation on January 3, 1976, Claimant was taken out of service and following a formal investigation on January 14, 1976 he was terminated for being under the influence of an intoxicant on the job.

Careful review of the record shows us that Claimant was afforded the due process to which he was entitled contractually and that Carrier had substantial evidence upon which to find him guilty. His personnel record indicates numerous prior discipline for the same offense, including suspension without pay only a short time before the latest incident. In the circumstances the claim must be denied.

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 20th day of December, 1978.