

The Second Division consisted of the regular members and in addition Referee James F. Scarce when award was rendered.

Parties to Dispute: ( System Federation No. 3, Railway Employees'  
Department, A. F. of L. - C. I. O  
(Carmen)  
( Milwaukee-Kansas City Southern Joint Agency

Dispute: Claim of Employee:

1. That under the current controlling agreement, Carman L. D. Rhinehart was improperly suspended from service on January 28, 1977, and unjustly dismissed from the service of the Milwaukee-Kansas City Southern Joint Agency as a result of investigation held on February 2, 1977.
2. That accordingly, the Milwaukee-Kansas City Southern Joint Agency be ordered to reinstate Carman L. D. Rhinehart to service with seniority rights, vacation rights, sick leave benefits, and all other benefits that are a condition of employment unimpaired, compensation for all time lost plus 6% annual interest, and that he be reimbursed for all losses sustained account of loss of coverage under Health and Welfare and Life Insurance agreements during the time 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 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 waived right of appearance at hearing thereon.

This claim disputes Carrier's discharge of Claimant for his violation of Carrier's Rule 7, which prohibits the use of alcoholic beverages, intoxicants or narcotics by employes subject to duty or in possession or using such substances while on duty.

There is more than substantial evidence indicating that Claimant was guilty as charged. Summarily, it shows that three (3) pint bottles of whiskey were found in Claimant's possession in his lockers. He also freely

admitted to "nipping" one or two shots of whiskey per day, with his morning coffee, to help his cough and to clear the phlegm out of his throat. While some doctors or medieval medicine men might prescribe such tonic to alleviate symptoms and illnesses such as the Claimant alleged that he had, it is clearly in violation of Carrier's rules and we conclude that Carrier was justified in taking the disciplinary action it did.

Considering the discharge invoked by the Carrier, we note that Claimant had twenty-seven plus years of service with the Carrier and was just a few years away from retirement when he was discharged. We think that Claimant has now had a few years to consider the seriousness of his action and will thus reinstate him, but without pay for time lost. In so doing, we warn the claimant that for whatever reasons or motives, the use or possession of alcoholic beverages is a serious violation of company rules. Thus, he is going to have to find another cure for his cough. We also suspect that Claimant may have a drinking problem, and we admonish him to analyze his situation very objectively and seriously, for if he does have such a problem, he should seek professional assistance to cure it. The next time he gets himself into trouble like this, the Carrier would be perfectly justified in permanently terminating his relationship, and this Board would not look so kindly on a request for reinstatement.

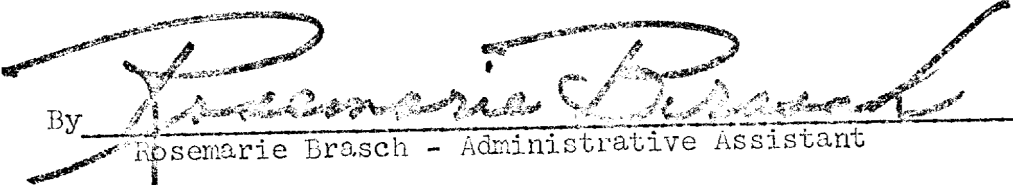
A W A R D

Claim sustained to the extent indicated.

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 28th day of February, 1979.