

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. 1, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Boilermakers)  
(  
( Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That Boilermaker Marc E. Johns was improperly dismissed from service following investigation held on August 18, 1977.
2. That accordingly the Carrier be ordered to reinstate the aforementioned Boilermaker, to service with all seniority rights unimpaired, all lost wages, Health and Welfare, Life Insurance, Vacation and Holiday pay now in effect and any additional benefits that may be negotiated as a result thereof until he is restored to 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 entered carrier service on October 12, 1976. He was assigned as a Boilermaker at the Stanley Diesel Terminal in Toledo, Ohio, at the time of this incident, with a tour of duty from 11:00 P.M. to 7:00 A.M..

As a result of his being found sleeping while on duty with traces of alcohol on his breath, he was simultaneously served with an out of service notice, effective 2:40 A.M., August 14, 1977 and Form G - 250 requiring him to attend an investigative hearing on August 18, 1977.

Specifically, claimant was charged with the following offenses:

1. Sleeping, at approximately 2:40 A.M., on Sunday, August 14, 1977 during your regular tour of duty as a Boilermaker at Stanley Diesel Terminal which began at 11:00 P.M., August 13, 1977 and would have ended at 7:00 A.M., on August 14, 1977.

2. Violation of Safety Rule 4002 which reads, "Narcotic Medication and/or alcoholic beverage must not be used while on duty or within 8 hours before reporting for duty."

3. Being out of your assigned work area, at approximately 2:40 A.M., Sunday, August 14, 1977, during your regular tour of duty as a Boilermaker at Stanley Diesel Terminal which began at 11:00 P.M., August 13, 1977 and would have ended at 7:00 A.M., August 14, 1977.

Although he acknowledged receipt of Form G - 250 on August 14, 1977 and understood the nature and purpose of the proceeding, he failed to appear at the investigation. He was, however, represented by a union official. Based on the investigative record, Carrier found him guilty of the specifications and dismissed him from service. This disposition is presently before us.

In reviewing this case, the facts are undisputed that claimant was found sleeping on the roof of the Stanley Diesel Shop. It was an impermissible act and not mitigated by the circumstances of his assignment. Three (3) eye witnesses testified that claimant explicitly admitted that he had been drinking that night and was aware of the significance and implication of Safety Rule 4002. Their testimony was unrefuted.

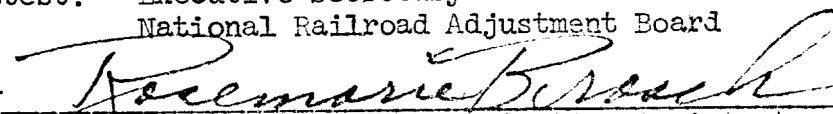
In view of such compelling and uncontroverted evidence and claimant's short term tenure and prior disciplinary record, this Board has no alternative, other than to sustain Carrier's dismissal penalty. Our consistent holdings that sleeping on duty is a dismissible offense is further compounded in this instance by claimant's self acknowledged alcoholic usage. (See for example Second Division Awards 4629, 6372, and Third Division Award 19977). It ill serves the industry to condone this type of workplace deportment, particularly, where as here, we are statutorily vested with a public interest responsibility. The claim is thus 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 31st day of October, 1979.