

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

Parties to Dispute: (Brotherhood Railway Carmen of the United
(States and Canada
(
(Boston and Main Corporation, Debtor

Dispute: Claim of Employees:

1. That under the terms of the current Agreement, Carman R. C. Lynde, (hereinafter referred to as the Claimant) was unjustly held out of service of the Boston and Maine Corp. (hereinafter referred to as the Carrier) from September 8, 1978 to November 28, 1978, inclusive.
2. That accordingly, the Carrier be ordered to compensate the Claimant for all lost wages and fringe benefits during time held out of service by the Carrier.

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.

Claimant was assessed a 60 day suspension following an investigation held on September 27, 1978 for being both intoxicated while on duty on September 8, 1978 and for failure to comply with a direct supervisory order. This disposition was appealed on the property pursuant to Agreement procedures and is presently before this Board.

In defense of his position Claimant contends on procedural grounds that the investigative transcript contained transcription errors that resulted when Carrier's tape recorder malfunctioned which impaired the accuracy of the trial record and argues on substantive grounds, that the charged specifications were not proven by Carrier's witnesses. Carrier, contrariwise, disputes these assertions.

In our review of the record, we disagree with Claimant's position. Firstly, careful analysis of the investigative record does not reveal information gaps or interpolated inaccuracies that would materially affect the record's substantive grounds, that the charged specifications were not proven by Carrier's witnesses. Carrier, contrariwise, disputes these assertions.

In our review of the record, we disagree with Claimant's position. Firstly, careful analysis of the investigative record does not reveal information gaps or interpolated inaccuracies that would materially affect the record's substantive content. The transcript is sufficiently clear to permit an intelligent assessment of the disciplinary incident. In fact, Claimant did not identify what errors were committed. The record, on the other hand, shows that two supervisors observed him at about 10:10 A.M. walking in a weaving and stumbling manner between a track of cars. His speech and general demeanor were indicative of an intoxicated condition. He exuded an alcoholic odor and then refused to ride with the supervisors to the Rip Office, so that he could be sent to the medical office for an examination. When he refused for the second time to ride with the supervisors to the same location, he was plainly insubordinate. His contention that he was ill was unsubstantiated. General Rule G requires in part that: "The use of intoxicants or narcotics by employees subject to duty or their possession or use while on duty, is prohibited." Claimant palpably violated this rule. His subsequent insubordination unfortunately compounded the problem. Carrier assessed a disciplinary penalty which we find was not unreasonable or capricious and thus we will sustain its determination. Alcoholic usage while on duty is a serious infraction that most certainly affects the safety or rail operations and it cannot for a moment be countenanced as a matter of public policy. The sixty (60) day suspension was corrective in nature and we hope that Claimant learned from it. The claim is denied.

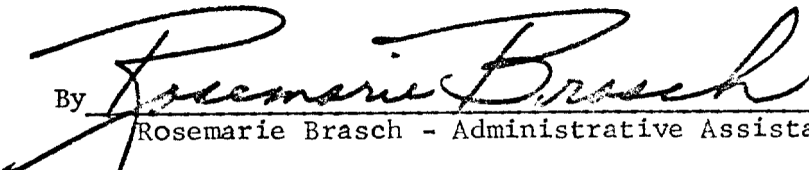
A W A R D

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 19th day of November, 1980.