

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 8636
Docket No. 8421
2-C&NW-BK-'81

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

Parties to Dispute: { International Brotherhood of Boilermakers, Iron Ship
Builders, Blacksmiths, Forgers and Helpers
{ Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Welder Helper J. G. Van Grunsven was unjustly dealt with when on date of September 15, 1978, he was dismissed from service of the Company.
2. That, accordingly, the Carrier be ordered to return Mr. VanGrunsvan to service immediately with:
 - (a) All seniority rights unimpaired.
 - (b) Compensation for all lost time at the prevailing rate of pay, plus 6% per day until date of payment.
 - (c) Make him whole for all vacation rights.
 - (d) Pay all premiums for hospital, surgical, medical and dental benefits for all time held out of service.
 - (e) Pay the premiums for group life insurance for all time held out of service.
 - (f) Be allowed all other benefits that he would have been entitled to had he not been removed from service.
 - (g) Remove the discipline from the record.

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, J. G. VanGrunsvan, is a welder helper in carrier's service in the Track Department at Green Bay, Wisconsin. He was charged with a violation of Rule

G. A hearing into the matter was held and subsequent to the hearing, claimant was dismissed.

The organization argued that claimant appeared to be under the influence of alcohol because he had only three and one-half hours sleep before reporting to work on the day in question. It further argued that claimant's blood alcohol test showed a level of 0.09%. This is below the level for which the state would allow one to drive an automobile. Carrier, on the other hand, submitted that claimant's physical appearance, his slurred speech, his unsteady nature, and the smell of alcohol on his breath clearly demonstrated that claimant was under the influence of alcohol when he reported for work the morning of August 31, 1979.

The results of an alcohol test administered to claimant later in the morning proved carrier's suspicions. It showed an alcohol level of 0.09%. The record of this case demonstrates very clearly that claimant was under the influence of alcohol when he reported for work on August 31, 1978. That is a violation of Rule G. It is well known in the railroad industry that violators of Rule G are subject to discharge. This board can find no fault with this concept and we must uphold carrier's actions in this instance.

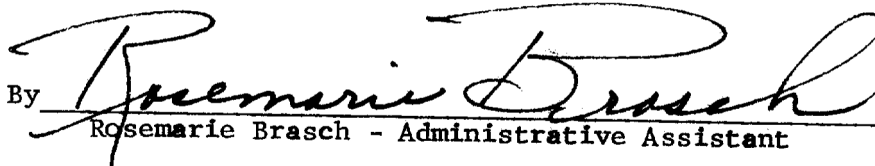
Much was said about carrier's employee assistance program in the record of this case. This board has universally supported carriers and organizations who utilize employee assistance programs to salvage employees, but we must leave these decisions to the parties involved.

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 25th day of February, 1981.