

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

Parties to Dispute: ( International Brotherhood of Firemen and Oilers  
(  
( Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Dispute: Claim of Employees:

1. That in violation of the current Agreement, Mr. C. Smith, Stationary Fireman, Milwaukee, Wisconsin, was unfairly dismissed from the service of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company effective August 5, 1981.
2. That accordingly, the Carrier be ordered to make Mr. Smith whole by restoring him to service with seniority rights, vacation rights and all other benefits that are a condition of employment, unimpaired, with compensation for all lost time plus 6% annual interest; with reimbursement of all losses sustained account loss of coverage under Health and Welfare and Life Insurance Agreements during the time held out of service; and the mark removed from his 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 employes 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.

Subsequent to an investigation held on July 14, 1981, the Claimant was found guilty of a Rule G violation and he was terminated from the Carrier's service on August 5, 1981. The Carrier essentially relied upon testimony adduced at its investigation, including the Claimant's admission that he drank a can of beer during his lunch hour, to arrive at its finding of guilt.

The Carrier then considered the Claimant's past record, which showed that he had been disciplined for previous violations of Rule G, in arriving at the measure of discipline to be assessed.

The Organization principally contends that the facts of record do not support a finding of guilt to the charge and that the Carrier's actions herein are unjust and an abuse of its discretion.

The Board, although it understands the contentions progressed by the Organization, finds that the claim cannot be sustained based upon a detailed review of the record.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 7th day of August 1985.