

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: (System Federation No. 91, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Firemen & Oilers)
(
(Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. That under the Current and Controlling Agreement, Service Attendant D. M. Smith was unjustly suspended from the service of the Louisville and Nashville Railroad Company on March 7, 1975, after a preliminary investigation was held in the office of Mr. J. W. Lile, Division Manager and subsequently was dismissed from the service on April 23, 1975, by Mr. E. O. Rollings, General Shop Superintendent, after a formal investigation was held in the office of Mr. R. L. Spain, Staff Asst. to Manager on March 17, 1975.
2. That accordingly, Service Attendant D. M. Smith be restored to his assignment at South Louisville Shops, with all seniority rights unimpaired, vacation, health and welfare, hospital and life insurance be paid and compensated for all lost time, effective March 7, 1975.

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.

The Claimant is Mr. D. M. Smith, a Service Attendant at the South Louisville Shops with a year and a half service in the employment of the Carrier. The Claimant was advised by letter dated March 11, 1975 that he was charged with being under the influence of intoxicants at 4:00 P.M. on the Second Shift at which time he was relieved from duty. An investigation was held on March 17, 1975. By letter dated April 23, 1975, the Claimant was advised that he was dismissed from the Carrier's service as a result of evidence contained in the record of the investigation. The record discloses that the Claimant was properly charged, and had very capable representation;

the Claimant and his representative were allowed to question all witnesses and present the Claimant's case as they chose. We find the record of the investigation contains very substantial evidence that the Claimant was guilty as charged. The discipline of dismissal is neither arbitrary, capricious or excessive based on the record of this case, and we shall deny the claim.

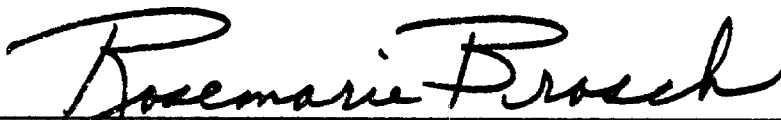
A W A R D

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 5th day of April, 1977.