

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (System Federation No. 4, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Firemen & Oilers)
(
(Chesapeake and Ohio Railway Company

Dispute: Claim of Employees:

1. That under the current agreement Oscar S. Waiters, Laborer, was unjustly dismissed from the service of the Carrier effective February 9, 1975.
2. That accordingly the Carrier be ordered to reinstate Oscar S. Waiters with seniority unimpaired, made whole for all wages lost from February 9, 1975, protected for health and welfare rights, Railroad Retirement benefits, vacation rights, and all other benefits of the agreement be protected from February 9, 1975, date held out of service.
3. That the Carrier be ordered to pay Claimant 6% interest annually on the wages lost.

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 employees 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, employed by the Carrier since 1963, was dismissed from service on February 25, 1975, for "reporting for duty ... in an unfit condition, apparently intoxicated to the extent you were unable to perform the duties of your regular assignment."

The dismissal followed an investigative hearing which was conducted in a fair and impartial manner.

After review of the full record, the Board will restore the Claimant to service with his seniority rights unimpaired but without any pay for time lost, subject to the following conditions:

1. The Claimant shall satisfactorily pass a return to service physical examination and shall be subject to periodic medical review for the following 12 months.
2. Claimant shall participate in a joint meeting with the Assistant to the Shop Superintendent, or his designee, and the Local Chairman for the purpose of reviewing Claimant's work record and having a thorough understanding of the Carrier's rules and Claimant's obligations thereunder.
3. Claimant shall clearly understand that this is his "last chance" and that if he desires to continue to work as an employe of the Carrier, he must comply with Carrier's rules.

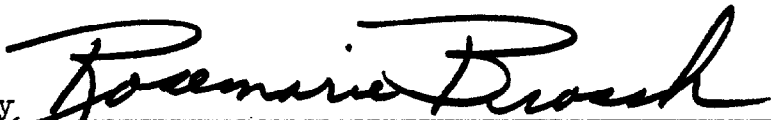
A W A R D

Claim sustained, subject to limitations specified in "Findings" above.

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 2nd day of December, 1977.