

The Second Division consisted of the regular members and in addition Referee Walter C. Wallace when award was rendered.

Parties to Dispute: (System Federation No. 7, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(
(Burlington Northern Inc.

Dispute: Claim of Employes:

1. That in violation of the current agreement Mr. T. S. Schend, Electrician Wireman, Havre, Montana, was unjustly dismissed from service of the Burlington Northern Inc., on January 30, 1976.
2. That accordingly, the Carrier be ordered to compensate Mr. Schend for all lost time together with restoration of any lost vacation time, holidays, sick pay or hospitalization benefits and any other rights, privileges, or benefits he may be entitled to under schedules, rules, agreements or law and that the dismissal be removed from his personal 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.

The claimant was a lead electrician with eleven years service, headquartered at carrier's facility located in Havre, Montana. On January 28, 1976, claimant, along with an electrician wireman from his same crew, left Great Falls having completed their work assignment that day. They were driving a carrier vehicle and they stopped for some shopping in Great Falls and proceeded to Big Sandy to relax and spend several hours at Butch's Bar in Big Sandy. Claimant maintains he had only two drinks at the bar. An employee of the bar approached claimant and asked him to drive her home in her car to Havre because she suffered from night blindness. Claimant complied and left the carrier vehicle in the custody of the electrician wireman. Thereafter, the latter was stopped enroute to Havre for speeding and still later the vehicle was demolished when it ran off the road. The driver was hospitalized for minor injuries. The claimant

is accused of violating Rule G which deals with consuming alcoholic beverages. There is no contention that claimant was authorized to drive at night after hours although it appears this was a practice. In addition, claimant does not maintain he was authorized to hand over custody of the vehicle to another employee. It is alleged the vehicle brakes and steering were defective prior to the accident, however, these were checked after the accident and found operable. Following a hearing claimant was dismissed from service. His prior record is clear and he is acknowledged to be a good worker.

We have reviewed the contentions here and we have thoroughly reviewed the evidence, including the chronicle of their activities in Big Sandy. It is our conclusion there is ample basis for carrier to take severe action in this case. On various counts this claimant was wrong, and he admitted as much in his testimony. Rule G requires broader application than the organization contends and this is supported by the awards of this Board. See Awards 235 (Lane) and First Division Award 15 029 (Whiting). However, we are moved by his prior record and service and we conclude there has been punishment enough in that he has been removed from service for an extended period.

There can be no argument that operating a carrier vehicle following drinking can have serious effects for those involved, the carrier and the public. Such practices must be condemned and the carrier is acting correctly when it takes severe action lest the impression be abroad that it will tolerate such conduct in any form. This employee was not driving the vehicle, but he was courting disaster when he sat down in a bar for several hours and then turned custody of a carrier vehicle over to his drinking companion. All that followed places a degree of fault on his shoulders. The offense is serious but for his prior clean record his dismissal would be affirmed. The claimant is to be warned that should any recurrence of this conduct take place the carrier would be amply justified in taking disciplinary action up to and including discharge. The claimant should be reinstated, seniority unimpaired, with no back pay.

A W A R D

Claim is sustained in accordance with the Findings.

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 14th day of April, 1978.