

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

Parties to Dispute: { Kenneth J. Radwan
{
{
{ Chicago, Rock Island and Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Carrier dismissed Carman, Kenneth J. Radwan and removed him from service on December 17, 1976.
2. That, accordingly, the Carrier be ordered to restore him to service with all seniority rights unimpaired and with pay for all the time lost retroactive to aforesaid date of discharge.

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 were given due notice of hearing thereon.

We believe the weight of the evidence is sufficient that claimant did report for duty in violation of Rule G. Consumption of intoxicating beverages just prior to reporting for duty is a serious and dangerous act and Carrier's officers would be irresponsible if they failed to take action in cases where there is every indication the employe's work and safety to themselves and others may be jeopardized. This Board finds Carrier's actions justified in this case.

Approximately six (6) months after claimant's discharge on December 17, 1976, Carrier addressed a letter to Claimant's General Chairman setting forth Carrier's policy of reviewing Rule G violations after six months. Claimant was offered reinstatement without pay for time lost. For reasons known only to himself the offer was refused by claimant. It is unfortunate that he did so. This Board finds no sound basis to set aside Carrier's dismissal decision.

This Division, in its Award 4820, stated:

"Having reached the conclusion that the claim is without merit, further determination as to whether the original presentation of the claim or the subsequent appeal to the highest designated personnel officer were timely within the meaning of the August 21, 1954 Agreement is unnecessary."

Here, for obvious reasons, we have considered the procedural errors alleged by Carrier and find that the claim was not handled in conformity with the Agreement.

Having found that the Carrier was justified in dismissing claimant, and finding further that the claim was not properly handled, this Board has no power or authority to set aside carrier's disciplinary action. Under the circumstances, however, in view of carrier's offer, we recommend that carrier renew its offer to restore the claimant to service under the conditions set forth in Mr. Mitros' letter of June 8, 1977.

A W A R D

Claim denied as per findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of April, 1978.