

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute: { System Federation No. 76, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 { (Carmen)
 { Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. Freight Car Inspector Vern F. Zietlow was unjustly dismissed from service on January 4, 1977.
2. Freight Car Inspector Vern F. Zietlow was erroneously charged with reporting for duty under the influence of alcohol on December 7, 1976.
3. That the Chicago and North Western Transportation Company be ordered to reinstate Freight Car Inspector Vern F. Zietlow with his seniority unimpaired, reimburse him for all lost wages dating from December 8, 1976; make him whole for all vacation rights, health and welfare and insurance benefits, including Railroad Retirement and unemployment insurance and all benefits he would have been entitled to as per Rule 35.

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 record would support the charge that the grievant was not fit for duty upon his arrival at work on December 7, 1976. There is no reason shown to doubt the correctness of the chemical analysis results as to the alcohol content in the Claimant's blood. There is reason, however, to question certain of the Carrier's assertions as to the Claimant's status as an habitual alcoholic. Such contentions were not founded upon credible proof. Nonetheless, the gravity of presenting oneself for duty in an intoxicated condition in direct violation of stated rules, coupled with a sufficient showing of

prior problems leads to a conclusion that the Claimant's employment status was on uncertain footing if such activity persisted. This Board will order one last opportunity for the Claimant to prove himself a deserving and productive employee. It is assumed that the intervening period since his employment with this Carrier has been used to correct any shortcomings insofar as work and personal habits are concerned. No back pay is ordered and the Claimant would do well to recognize the finality of this opportunity.

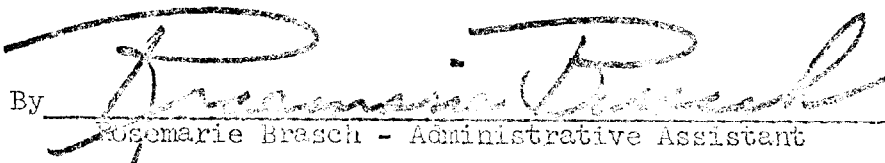
A W A R D

Claim is sustained to the extent set forth in 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 29th day of November, 1978.