

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

Parties to Dispute: (International Brotherhood of Electrical Workers
(Chesapeake and Ohio Railway Company

Dispute: Claim of Employees:

1. That the Chesapeake and Ohio Railway Company violated the current Agreement when it unjustly dismissed Telephone Gang Lineman Jack H. Hammond from service on January 9, 1979.
2. That accordingly, the Chesapeake and Ohio Railway Company be ordered to restore Telephone Gang Lineman Jack H. Hammond to service with seniority unimpaired and compensate him for all time lost subsequent to and including January 9, 1979, and restore all other benefits he would have had if he had remained in service.

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.

Claimant was employed as a Telephone Gang Lineman on Carrier's System telephone gang, with approximately one year of service. While driving a Company truck to Merrillville, Indiana, at about 11:05 p.m., November 29, 1978, claimant was apprehended by Indiana State Trooper and charged with "driving while intoxicated", and incarcerated in the Lake County jail at Crown Point, Indiana. He pled guilty in the Lake County Traffic Court; was fined \$150.00 and, in addition, received a thirty-day suspended sentence in the Lake County Jail and one year's probation on his driver's license with the exception that he was allowed to drive to and from work on an emergency basis.

By letter dated December 6, 1978, and sent to his last known address, he was notified:

"Please arrange to attend investigation in the office of
Manager Engineering, 14th & Madison Ave., Covington, Ky.,
at 2:00 PM on December 18, 1978.

You are charged with operating a company vehicle under the

influence of alcohol at 11:05 PM, CST, on Wednesday,
November 29, 1978, on Interstate 65 near Merrillville,
Indiana.

Arrange for witnesses and/or representative if desired."

A copy of the letter was sent to the General Chairman of the Organization.

The investigation was conducted as scheduled. The Lake County Court Docket was introduced in the investigation, which we consider proper, the Court Docket being a matter of public record. Following the investigation, claimant was dismissed from service on December 27, 1978. In the appeal of the dispute on the property, some question was raised as to whether claimant was properly notified of the investigation. However, in the investigation the claimant stated that he felt that he had been properly notified.

In the investigation it was testified by Supervisor Nealis that claimant and another employe, David R. Robertson, had been instructed to drive from Huntington, West Virginia, to the motel at Merrillville, Indiana, on November 29, 1978, to start replacing stolen line wire the next morning.

The claimant stated in the investigation that he drank seven or eight beers while at home; that he drank about three on the way to his destination, and that he had had a few "beverages" just prior to being stopped by the State Trooper.

Based on the entire record, there is no proper basis for this Board to interfere with the discipline imposed.

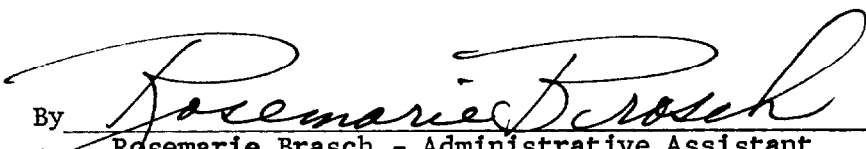
A W A R D

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 6th day of January, 1982.