

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(Indiana Harbor Belt Railroad Company

Dispute: Claim of Employees:

1. That the Indiana Harbor Belt Railroad Company be ordered to restore Machinist C. Kitzmiller to service and compensate him for all pay lost up to time of restoration to service at the prevailing machinist rate of pay.

2. That Machinist C. Kitzmiller be compensated for all insurance benefits, vacation benefits, Holiday benefits and any other benefits that may have accrued and were lost during this period in accordance with Rule 36 of the prevailing agreement effective January 1, 1947.

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 employes 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.

An investigative hearing was held on November 17, 1980, to determine whether the Claimant consumed alcoholic beverages while on duty. The Claimant subsequently was found guilty and was dismissed from the service.

The foundation of the Organization's claim rests on the contention that no one saw the Claimant drinking an alcoholic beverage while on duty. Moreover, it maintains that, under the circumstances of record, dismissal from the service was an overly harsh penalty.

The Carrier, to arrive at its findings, relied upon testimony at the hearing which it asserts provided sufficient substance to support its conclusion of rule violation.

The Board finds, under the facts herein, that the claim lacks sufficient substance for a sustaining award. The Claimant, by his admission, had brought to and had consumed alcohol on the property. Therefore, while there is some indication that the Claimant has now participated in the Carrier's Employee Assistance Program, these are discretionary matters for the Carrier to consider and, under the circumstances here, we have no basis to disturb the discipline assessed.

Form 1
Page 2

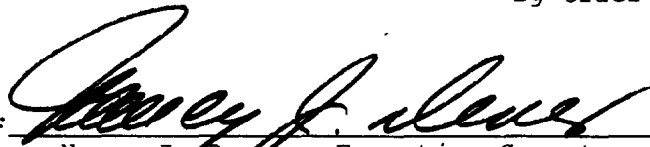
Award No. 10361
Docket No. 9772
2-IHB-MA-'85

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 10th day of April 1985.