

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
(Fort Worth and Denver Railway Company

Dispute: Claim of Employees:

1. That under the Fort Worth and Denver Railway Company Schedule of Rules, the Carrier unjustly dismissed Machinist Helper M. V. King effective December 15, 1981.

2. That, accordingly, the Fort Worth and Denver Railway Company reinstate Machinist Helper King with seniority rights unimpaired, compensate him for all wages lost as a result of said dismissal, and restore to him unimpaired all other rights and privileges of employment.

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.

Subsequent to an investigation, the Claimant was found to be in possession of an alcoholic beverage on the Carrier's property and was dismissed from the service.

The Organization argues on a number of counts. Principally, it maintains that the presence of alcohol in an individual's locker, as in this dispute, does not constitute possession. Moreover, it maintains that the Claimant, who had fully cooperated with the Carrier, was clearly not under the influence of alcohol.

The Carrier basically relied upon testimony which it contends leads to a finding that the liquor found in the Claimant's locker belonged to him. Under these circumstances, and in view of the short tenure of the Employee, it maintains that his dismissal was not unduly harsh.

This Division has consistently held that Rule G violations normally are of such seriousness as to warrant dismissal. In the instant case, while there are reasonable arguments, as skillfully advanced by the Organization as to what constitutes possession, the facts, as presented, weigh in favor of the Carrier. The Claimant admitted that the liquor found in his locker belonged to him. Therefore, while the liquor was not in his possession in the sense of it being discovered on his person, there can be no serious argument that it was his and under his control.


Consequently, with due weight to the short service history of the Claimant, and, given the seriousness of the offense, we cannot find that the Carrier acted in any arbitrary manner.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Weaver - Executive Secretary

Dated at Chicago, Illinois, this 24th day of April 1985.