

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
(National Railroad Passenger Corporation (Amtrak))

Dispute: Claim of Employees:

Appeal of dismissal from service of Electrician Tyrone Rogers effective January 2, 1986.

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 were given due notice of hearing thereon.

The record shows that Claimant entered Carrier's service on February 14, 1977. At the time of the occurrence giving rise to the dispute herein he was employed as an Electrician at Carrier's 16th Street Diesel Facility, Chicago, Illinois.

On December 6, 1985, Claimant was notified to attend a formal Investigation on December 12, 1985, in connection with the charge:

"Your responsibility for your alleged failure to comply with that portion of the National Railroad Passenger Corporation Rule of Conduct 'F' which states: 'All employees are required to conduct themselves in a courteous and professional manner in dealing with the public and other Amtrak employees. Boisterous conduct or horseplay and profane or vulgar language are prohibited. Employees will not assault, threaten, harass, intimidate, fight, or participate in any activity which could cause bodily injury to other employees or members of the public while on duty or on Amtrak property or using Amtrak equipment. Employees, whether

on or off duty, will not disrupt or interfere with other employees in the performance of their duties'; and 'G' which states: 'Employees subject to duty, reporting for duty, or while on duty, are prohibited from possessing, using or being under the influence of alcoholic beverages, intoxicants, narcotics or other mood changing substances, including medication whose use may cause drowsiness or impair the employee's responsiveness.'

In that, at approximately 2:00 p.m. on December 4, 1985, you allegedly conducted yourself in a threatening and intimidating manner. You were disruptive and interfered with the duties of Foreman A. Shephard and General Foreman E. Loumakis. Also you were alleged to be under the influence of an alcoholic beverage."

At the request of the Organization, the Investigation was postponed and rescheduled for December 18, 1985, at which time it was conducted. A copy of the transcript of the lengthy Investigation (254 pages) has been made a part of the record. Claimant was present throughout the Investigation, with two duly accredited representatives. Numerous objections were raised by Claimant's representatives during the course of the Investigation. We have considered the objections raised and find none of them or all of them of sufficient significance to invalidate the proceedings. The charge against the Claimant was sufficiently precise to enable the Claimant and his representatives to prepare a defense. Claimant was not denied any Agreement rights.

We will not attempt to analyze here all the evidence adduced in the lengthy formal Investigation. We do find, however, that substantial evidence was introduced in support of the serious charges against the Claimant. The defense of diabetes on the part of Claimant is not persuasive and must fail.

The record shows that Claimant was previously dismissed from Carrier's service on similar charges, effective September 10, 1982. That dismissal was appealed in the usual manner up to and including this Board. In Second Division Award No. 10211, issued on January 16, 1985, the Board concluded that the discipline had served its purpose, and awarded that Claimant be restored to service with seniority unimpaired, but without back-pay.

Considering the seriousness of the charge against the Claimant herein, the substantial evidence in support of the charge, and Claimant's prior record, we find no proper basis to interfere with the discipline imposed by the Carrier.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 1st day of July 1987.