



Award No. 17268

Docket No. TE-17875

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert C. McCandless, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

PENN CENTRAL COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Pennsylvania New York Central Transportation Company (PRR), that:

1. W. H. Salmons, regularly assigned block operator at Fields Avenue Tower, Columbus, Ohio, rest days Saturday and Sunday, rate of pay \$3.111 per hour, was not guilty of the alleged offense, "being in unfit condition to perform duty as Block Operator, Fields Avenue, Columbus, Ohio at approximately 1:25 P.M. Thursday, February 23, 1967, violation Rule G.", which led to his dismissal from service.
2. Carrier shall compensate W. H. Salmons for all time lost from his assignment from Friday, February 24, 1967, until he is justly reinstated to his first trick position, Fields Avenue Tower.

OPINION OF BOARD: Claimant, W. H. Salmons, an employee of Carrier for twenty-six (26) years prior to the incident involved herein—was charged, tried, and dismissed for "being in unfit condition to perform duty as Block Operator. . ." in violation of Rule "G" of the Book of Rules, which reads:

"G. The use of intoxicants or narcotics by employees available for or while on duty is prohibited and is sufficient cause for dismissal. The possession of intoxicants or narcotics while on duty is prohibited. (Rev. 9-1-58)"

The Employees advance the instant claim alleging that Claimant was not afforded a fair trial, that the evidence was too insubstantial to support the finding, and that the discipline was excessive. Regulation 6-A-1 of the Agreement reads, in part, as follows:

"(a) Employees shall not have a reprimand noted on their discipline records nor be suspended or dismissed from service without a fair and impartial trial."

Claimant was accused of being in an unfit condition to do his job because he had been drinking. Claimant denied this, alleging that his condition was caused by mistakenly taking an overdose of tranquilizers. This Board feels that there was evidence of sufficient weight to justify the finding that the Claimant was indeed intoxicated while on the job.

However, this Board finds there were mitigating circumstances, which, when viewed in the light of them, makes the discipline rendered both excessive and overly harsh. Claimant had worked for Carrier for twenty-six (26) years. During all those years, Claimant had only one minor offense against his record. On the day the incident before us occurred, Claimant's wife was undergoing surgery. Two days prior to that date, Claimant's son had been killed in Viet Nam.

This Board has repeatedly said that drinking intoxicants on the job is a serious offense; one which can endanger the welfare of the individual and his co-workers. We do not retreat from that position. However, as this Board has seen fit before, we find that the above mentioned mitigating circumstances render the discipline in the instant case excessive and harsh. Consequently, we deny the claim as to back compensation, but we sustain that part of the claim requesting reinstatement.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated in accordance with Opinion.

A W A R D

Claim sustained to the extent indicated in Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1969.