



Award Number 17317

Docket Number CL-18009

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert C. McCandless, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES

PENN CENTRAL COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6509) that:

- (a) The Carrier violated the Rules Agreement, effective May 1, 1952, except as amended, particularly Rule 7-A-1 (a), (b), (c), (d), when it imposed discipline of dismissal upon Thomas L. Alsobrooks, Tallyman, West 12th Street Freight Station, Pier 50, North River, New York, New York, New York Division.
- (b) Claimant Thomas L. Alsobrooks be returned to service with all rights unimpaired and that he be reimbursed for all monetary losses sustained from March 4, 1965. (Docket 2058)

OPINION OF BOARD: Claimant, a twenty-two year employee of Carrier, was charged, tried and dismissed from service for reporting to work "in an unfit condition" to perform his duties.

The facts, although controverted, seem to establish that Claimant asked one of his superiors if he might leave and go get a check cashed. He was told he could do it later. It then appears that he got someone to take over his duties anyhow, cashed his check, and within his lunch time and whatever additional time he took, he had a few beers with his lunch. Upon returning to his post he was seen staggering, smelled of alcohol, etc., and was thereupon taken to the doctor who said he had had too much to drink and Claimant was sent home.

Employees contend that Claimant had been employed for twenty-two (22) years with the same Carrier and that dismissal in this instance is too harsh and constitutes an abuse of Carrier's discretion. Carrier, on the other hand, contends that the use of intoxicants on the property is both prohibited by the need to control the premises for safety and by their General Rules, the pertinent one of which reads:

"Rule 10. The use of intoxicants by employees available for or while on duty is sufficient cause for dismissal."

Since no procedural defects have been called to this Board's attention, we must look strictly to see if there was sufficient evidence to sustain

the findings of the Carrier, and then if so, if Carrier abused its discretion in meting out the discipline in the instant case.

Clearly neither side disputes the facts that Claimant was using or had used intoxicants to an excess when he returned to his job after lunch. When we look at the discipline here applied, it is regrettable that a man of his service must be dismissed. But Claimant had been disciplined six times before, some of them involving safety violations. We find no abuse of Carrier's discretion nor in the light of the circumstances and the past record is the discipline needlessly harsh.

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 Employes involved in this dispute are respectively Carrier and Employes 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 not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1969.