

Award No. 18508
Docket No. CL-18955

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

THE CINCINNATI UNION TERMINAL COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6854) that:

1. Carrier acted in an arbitrary and capricious manner in dismissing William E. Cresap from Carrier service.
2. Carrier shall now be required to return Mr. Cresap to service with seniority and all other rights unimpaired and to compensate him for all wages lost as a result of the dismissal.

OPINION OF BOARD: Following a formal investigation held on August 19 and 20, 1969, Claimant was notified on August 21, 1969, of his dismissal from the Carrier's service on the following charges:

"Conduct unbecoming an employee of the Cincinnati Union Terminal and violation of Cincinnati Union Terminal Company rules prohibiting the use of intoxicants and narcotics, in that you were found in the Cincinnati Union Terminal Company parking lot just north of the Mail Building at 4:45 P. M. on Saturday, August 2, 1969, sitting on the ground leaning against the cushion of the front seat on the driver side of your car, in an unconscious condition from which you were removed by the Cincinnati Police Department Life Squad to General Hospital where you were arrested on a charge of 'Drunk - Down and Out'."

A transcript of the investigation conducted on August 19 and 20, 1969, has been made a part of the Record.

From our review of the transcript of the investigation and the entire Record before the Board, including Claimant's prior record, we do not find that the action of the Carrier was arbitrary, capricious or in bad faith. We will, therefore, deny the claim.

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 Employees involved in this dispute are respectively Carrier and Employees 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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of April 1971.