

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20592
Docket Number CL-20509

David P. Twomey, Referee

PARTIES TO DISPUTE: { **Brotherhood** of Railway, Airline and Steamship
{ Clerks, Reight Handlers, Express and
{ Station **Employees**
(George P. **Baker**, Richard C. Bond, and
(**Jervis Langdon, Jr.**, Trustees of the
(Property of Penn Central Transportation
(Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(CL-7435) that:

(a) The Carrier violated the Rules **Agreement**, effective February 1, 1968, particularly Rule 6-A-1, when It assessed discipline of dismissal on Claimant **Mozell Hollins**, Chauffeur, Ft. Wayne, **Indiana**, Western Region, Pt. Wayne Division.

(b) Claimant **Mozell** Hollins be restored to service with seniority and all other rights unimpaired, **and** be compensated for **wage loss** sustained during the period out of service, **plus** interest at **6%** per annum compounded daily.

OPINION OF BOARD: The Claimant, a Chauffeur with twenty-six years clear service for the Carrier, was charged and found guilty of unfitness for duty because of **possession and** use of **alcohol while** on duty. On the date in question, the **Claimant** was assigned to drive a **company bus**; and **was** responsible for the transportation of train and engine crews to and from their **trains**. There is no doubt that the Claimant **was** guilty of the charge. In addition to the unchallenged testimony of **witnesses**, the Indiana State Police administered a **"breatholizer"** test at the request of the Carrier and with the consent of the Claimant: the results showed that the Claimant had a blood alcohol content of **.25%**. Under **Indiana** law, **anywhere** from **.05** to **.10** is possible proof of being unfit to drive, while anything above **.10** is **prima facie** evidence for **arrest**.

The Organization contends that the discipline of dismissal was excessive and unreasonable in view of the Claimant's clear record for a period of 26 years. **The** Carrier contends that the Claimant's intoxication on duty **was** an act in defiance of Carrier's rules; that the use of intoxicants while on duty **is** a most serious offense in the railroad industry; and that the gravity in this case was compounded by the fact that the **Claimant was** the driver of a motor vehicle being used in the

transport of other railroad employees, whose lives depended upon the Claimant's ability to function properly. **Thus**, the Carrier contends that the discipline **was** not **excessive** or unreasonable.

We find that the *Carrier* has **supported** its finding **that** the **Claimant was** guilty of the charge. We find that the discipline in **this case was** not excessive or **unreasonable**.

FINDINGS: The Third Division of the Adjwtnment **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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **Third** Division

ATTEST: *A. W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 17th day of January 1975.