

NATIONAL RAILROAD **ADJUSTMENT** BOARD

**THIRD DIVISION**

Award Number **22519**  
Docket Number **MS-22938**

(**Fred Garland**

**PARTIES TO DISPUTE:**

{Consolidated Rail Corporation

**STATEMENT OF CLAIM:** This is to serve **notice**, as required by the rules of the National Railroad Adjustment **Board**, of my intention to file an **ex parte** submission on ~~4-13-79-Ma~~ April 13th 1979 covering an unadjusted dispute between me and **ConRail** involving the question:

Rule "**G**" drinking on the job:  
Causing termination. I should like an oral hearing.

**OPINION OF BOARD:** Petitioner entered service of the Carrier as a **trackman** on **May 25, 1976**. Petitioner was cited and hearing held January 5, **1977** on **alleged** charge of "Drinking **alcoholic** beverage while on duty on December 26, **1976** in violation of Safety Rule 3002 and Rule G of the Rook of Rules for Conducting Transportation." On January **14, 1977**, Petitioner's service with Carrier was terminated. Under date of **March 14, 1979**, Petitioner filed Notice of Intention to this Division of unresolved dispute between himself and Carrier involving the question: "Rule '**G**' drinking on the job! Causing termination. I should like an oral hearing." Petitioner followed April 13, **1979** with letter to Division reiterating the question at issue set forth in his March **14, 1979** Notice of Intention to file submission on the unresolved dispute. However, Petitioner did not set forth **facts** relating to the dispute nor his position **in** defense of Carrier's action of terminating his service which resulted from hearing held January 5, **1977**. Petitioner was afforded Opportunity at hearing scheduled September **4, 1979** to make full answer orally or in writing to all matters covered in Carrier's submission. Petitioner did not appear nor submit written response.

The Division has reviewed and considered ~~the~~ record as submitted by the Parties and conclude testimony adduced at the hearing **January 5, 1977** contained substantial evidence ~~of~~ Petitioner's **conduct** December 28, **1976** to support the charge of violation of Rule "G" and with consideration of **prior discipline assessed** ~~Petitioner~~, termination was neither arbitrary nor unreasonable.

Carrier raised **certain** procedural objections; however, in **view** of our findings here, they need not be further discussed.

FINDINGS: The Third Division of the Adjustment **Board**, after **giving** the Parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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;

That hearing thereon has been held and concluded; 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. Paulos*  
Executive Secretary

Dated at Chicago, Illinois, this **17th** day of September 1979.