

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22522
Docket Number CL-22605

Paul C. Carter, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(The Pittsburgh and Lake Erie
(Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8644) that:

(a) Carrier violated the rules of the Agreement effective September 1, 1946, revised December 1, 1956, particularly Rules 4 and 20, among others, when on September 16, 1977, it dismissed Mr. Charles Welsh, Jr., from active service. Carrier's action in dismissing Mr. Welsh from service on unproven charges was based on predetermined guilt and suspicion, therefore, was unjust, unreasonable and an abuse of Carrier's discretion.

(b) Carrier shall now restore Mr. Welsh to active service with all his seniority rights unimpaired.

(c) Carrier shall expunge from his record any notation placed thereon as a result of its improper action and compensate Mr. Welsh for all time held out of service, including protective agreement payments which would have accrued to him had he remained in service, inclusive of reimbursement for any medical expense, hospital, surgical or related expenses that Mr. Welsh is required to assume for himself and/or dependents to the extent that such expenses would have been paid by Travelers Insurance Company had claimant continued in carrier's service.

OPINION OF BOARD: Claimant was assigned to clerical Job No. 117
at Carrier's McKees Rock, Pa., Freight Office,
with assigned hours of 8:00 a.m. to 5:00 p.m., with lunch period
12:00 Noon to 1:00 p.m.

On September 16, 1977, claimant and one other clerical employee from the McKees Rock Freight Office, were observed by four of Carrier's officials separately entering a bar known as the Beacon Club, which is located a short distance from the Freight Office.

After the claimant entered the Beacon Club, the four Carrier officials entered the club. While in the Beacon Club, Carrier's Superintendent of Stations advised both of the employees that they were removed from Carrier's service for violation of Carrier's General Rule G and Rule J-1.

On September 28, 1977, claimant was instructed to attend a formal investigation at 1:00 P.M., October 7, 1977, at Carrier's headquarters in Pittsburgh, Pa., "to develop the facts and determine your responsibility, if any, for alleged violation of Rule G and Rule J-1 of the Pittsburgh & Lake Erie Railroad Company General Rules concerning incident and observation that occurred at 3:20 p.m., September 16, 1977, at McKees Rock, Pa." A similar type investigation was scheduled for the other employee involved for 10:00 a.m., on October 7, 1977.

Carrier's Rules G and J-1 read:

- "G. The use of alcoholic beverages, intoxicants or narcotics while on duty or subject to duty; being under the influence of alcoholic beverages, intoxicants or narcotics while on duty; or possession of alcoholic beverages, intoxicants or narcotics while on duty is prohibited."
- "J-1. Employees will not absent themselves from duty without proper authority."

The claimant was present at the investigation scheduled for 1:00 P.M., October 7, 1977, and was represented by three union officials. The officials who observed the employees entering the Beacon Club were present and testified as to their observations.

On October 13, 1977, the claimant was notified of his dismissal from service effective that date.

We have carefully reviewed the transcript of the investigation conducted on October 13, 1977, and find that none of claimant's substantive procedural rights was violated.

Without detailing the evidence presented at the investigation, suffice it to say that there was substantial evidence produced to

support the charges against claimant. The record also shows that claimant had previously been disciplined on two occasions for failing to properly protect his job assignment.

There is no proper basis for this Board to interfere with the discipline imposed.

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.

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 28th day of September 1979.