

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23862  
Docket Number GL-23696

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,  
                                  { Freight Handlers, Express and Station Employees  
                                  {  
                                  { (The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-9266) that:

(1) Carrier violated Rules of the effective Clerk-Telegrapher Agreement when, on November 21, 1979, it unjustly dismissed Chief Caller Mr. G. E. Derryberry from service of Carrier, and

(2) As a result of such impropriety, Mr. G. E. Derryberry shall be reinstated to the service of Carrier with seniority and all other rights unimpaired, and

(3) Mr. G. E. Derryberry shall be compensated for any and all wage, hospitalization and other losses suffered as the result of his improper dismissal from Carrier's service.

OPINION OF BOARD: Claimant G. E. Derryberry, a Chief Caller, was charged with "the use of intoxicants" at caller's office, Glenwood, Pennsylvania about 1:00 AM - 4:00 AM on November 13, 1979. A hearing was held on November 20, 1979, and Claimant was notified of his dismissal from the service on the next day. A second hearing was requested, and it was held on December 3, 1979. After this second hearing the Carrier reaffirmed the decision to dismiss Claimant.

Examination of the record before the Board, i.e., the testimony of Chief Dispatcher Bradley, Assistant Terminal Trainmaster Gaylord, and of the claimant establishes that the Carrier had good cause to conclude that Claimant was intoxicated while on duty. There was substantial evidence in the record to sustain the Carrier's decision to discipline Claimant. However, given Claimant's thirty-six years of unblemished service, the penalty of dismissal is too severe. Accordingly, it is our determination and we so order that Claimant be restored to service with seniority rights unimpaired but without pay for the time spent out of service.

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;

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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 her-in; and

That the **discipline** assessed was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: Acting Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 28th day of April 1982.

