

NATIONAL RAILROAD **ADJUSTMENT BOARD**

THIRD DIVISION

Award **Number** 25193  
Docket Number SC-25368

Paul C. Carter, Referee

(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(Consolidated Rail Corporation

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation.

That the Carrier failed to provide sufficient evidence to support its dismissal of **Signalman** Ronald C. Smith on the charge "being under the influence of alcohol when reporting for duty at 7:00 a.m., November 24, 1982." Claimant should be restored to service with payment for time lost and seniority and benefits unimpaired. [Carrier File **No.** SD-2010-D Eastern Region]

OPINION OF BOARD: The Claimant herein is the same as involved in Award **No.** 25192. As the Claimant's dismissal "as upheld in that case, the Board could hold that his employer-employee relationship has been terminated, and dismiss the present dispute. **However,** as the alleged offense herein occurred while the Claimant was an **employee** of the Carrier, we will decide the present dispute on its merits.

Claimant, a Signalman, had been in Carrier's service about four years. On November 30, 1982, he "as notified to attend a trial on the charge:

'Being under the influence of alcohol when reporting for duty at 7:00 AM, **November 24, 1982.**'

The trial "as held as scheduled on December 6, 1982, with the Claimant present and represented. A copy of the transcript of the trial has been made a part of the record. Upon review of the transcript we find that the trial "as conducted in a fair and impartial manner. None of Claimant's substantive procedural rights "as violated.

In the trial substantial evidence "as adduced in support of the charge against the Claimant. A Supervisor C&S testified that Claimant entered the office **about 7:30 A.M.** and made the comment that his tools had been stolen, at which time he noticed that Claimant's speech "as slurred, his eyes were red, and that he "as sort of "staggering and listing'. **He** went on to state that he could smell alcohol when he got close to Claimant.

A **Trainmaster**, who "as asked by the Supervisor C&S to observe Claimant, testified that **Claimant** appeared to be glassy-eyed, his speech "as slurred, and "hen he went to walk across the room his steps were uneven.

An Office Engineer testified that he noticed that Claimant's speech appeared to be slurred.

Claimant stated that he had engaged in drinking for some six hours the previous evening, after work, but denied that he had engaged in drinking on the morning of November 24, 1982. Also in the investigation some question was raised as to Claimant not being given a sobriety test. It is well settled by numerous awards of this Board that laymen are competent to judge intoxication, without the need of medical or other scientific tests.

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

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: \_\_\_\_\_  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1985.

