

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Missouri Pacific Railroad Company (C&EI)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Missouri Pacific Railroad Company, (formerly the Chicago and Eastern Illinois Railroad Company):

On behalf of H.F. Cartwright, Jr., for reinstatement to service effective July 29, 1985, with all lost compensation, rights and benefits restored, account of Carrier violated the current Signalmen's Agreement, as amended, when it dismissed him from service account of alleged rules violation on July 18, 1985. General Chairman's file: 85-54-CEI. Carrier file: 217-57."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was employed for some fourteen years as a Signal Maintainer for Carrier, headquartered at Yard Center, Dolton, Illinois. In the performance of his duties he was routinely required to operate a Carrier vehicle.

At 12:01 A.M. on July 18, 1985, Claimant's driver's license was revoked by the State of Illinois after his third conviction for driving while intoxicated. Upon learning of this, the Carrier's Signal Supervisor called Claimant to his office for an interview. The Signal Supervisor verified that the driver's license had been revoked and, while he was talking to Claimant at 8:00 A.M., noticed that Claimant's eyes were bloodshot and he smelled of alcohol. The Signal Supervisor removed Claimant from service and on July 19 the Terminal Superintendent cited Claimant for investigation into charges of failing to have a proper state driver's license and being under the influence when reporting for work on July 18, 1985. The investigation subsequently was jointly postponed and held on July 26, 1985, following which Carrier found Claimant guilty and dismissed him from service.

Timely appeal was taken and handled without resolution on the property, receiving final denial on October 16, 1985. The nine-month period for appeal to the Board would have expired July 15, 1986, but Carrier granted a sixty-day extension at the Organization's request due to the death of the former General Chairman. The requested extension expired September 15, 1986, but the Notice of Intent was not filed until October 1, 1986.

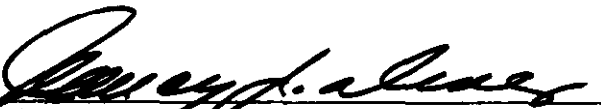
Even if, arguendo, the appeal to this Board were considered timely due to the mitigating circumstances, there is no proper basis for overturning Carrier's disciplinary action. We find no fatal procedural defects in the hearing process nor in the assessment of discipline. Claimant plainly was culpable for the loss of his driver's license and the preponderance of evidence supports Carrier's charge of on-the-job intoxication. The record shows that Claimant was offered an opportunity to enroll in the Employee Assistance Program to try and deal with his apparent alcohol problem, but he adamantly and defiantly refused to accept this offer. We are constrained to deny the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1989.