

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10280) that:

(a) Carrier violated the rules of the current Clerks' Agreement at Fort Worth, Texas, on August 18, 1987, when it wrongfully discharged C. E. McGill from service, and

(b) C. E. McGill shall now be reinstated and compensated for loss of wages and benefits commencing August 18, 1987, and

(c) Carrier shall also be required to pay 10% interest compounded daily on all wages and benefits wrongfully withheld from Claimant McGill commencing August 18, 1987."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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.

At the time of the incident that gave rise to this dispute, Claimant was assigned to the 11 PM to 7 AM Towerman position in Dallas, Texas. On the morning of August 6, 1987, Claimant was found asleep on the floor of the tower with a pillow and sheet. When he was awakened, his speech was mumbled and he was asked to take a blood and alcohol test. The test proved positive for marijuana and a 0.149 alcohol content. Empty beer cans were also found in the tower and Claimant acknowledged that he had drunk beer while on duty.

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Award No. 28085
Docket No. CL-28479
89-3-88-3-288

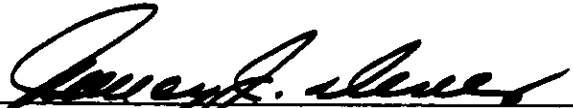
Following an Investigation held on August 18, 1987, Claimant was found guilty as charged and was removed from service. This Board has reviewed the entire record of the case, including the transcript of the Investigation, and must conclude that there was sufficient probative evidence brought forth to prove that Claimant was both sleeping and drinking on the job. Given the nature of these transgressions, plus Claimant's past record, which includes 275 demerits for a variety of infractions and a 30-day suspension for lateness, we can only conclude that the discipline imposed was warranted.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1989.