

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

(Henry Hopstad

STATEMENT OF CLAIM: (

(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

"1. Whether or not the Claimant was on duty at the time of the incident;

2. Whether or not the hearings officer was prejudiced in this case:

3. Whether or not Burlington Northern can retroactively apply a Rule G violation occurring before the adoption of its two violations policy; and

4. Whether or not Claimant was on 'Operating Property' at the time of the incident."

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 were given due notice of hearing thereon.

On October 5, 1988, the Claimant was notified of an Investigation concerning an alleged violation of Rule G. Subsequent to the Investigation, the Claimant was dismissed from Carrier's service.

The record shows that the Claimant traveled from Glasgow, Montana to Seattle, Washington, on an Amtrak train, to be interviewed for a position as a Train Dispatcher. The Claimant was under pay by the Carrier for the trip to

and from Seattle. When the Claimant arrived at the King Street Station in Seattle he was met by a Carrier official who transported him to the dispatch office where the interview was to be held. At least two Carrier Supervisors observed that the Claimant showed signs of use of an intoxicant, such as slurred speech, unkempt attire, poor eye-hand coordination, staggered gait and a strong odor of alcohol. When the Claimant was offered a urinalysis, he refused.

Rule G prohibits, among other things, the use of alcoholic beverages and intoxicants by employees subject to duty, nor may employees report to duty under the influence.

The Claimant argues that he was not aware that the King Street Station was Carrier's property or that he would be transported to an interview immediately upon his arrival.

Be that as it may, the Claimant exhibited extremely poor judgment at the very least. Surely he realized that he was to be interviewed upon his arrival in Seattle, and he must have realized that the discussion would take place at a facility under Carrier's control. Simply stated, Rule G prohibits the very type of activity engaged in by this Claimant.

Claimant has raised certain procedural objections, asserting a pre-judgment by the Hearing Officer. Our review of the record fails to convince us that there is any procedural error in that regard.


Finally, the Claimant objects to the Carrier's decision to terminate him since the Carrier's policy is to terminate after a second Rule G offense, and the Claimant's first such offense predated the adoption of that policy. Assumedly, he argues that the 1986 policy wiped the slate clean of his prior offense. We do not read the policy in that manner, but in fact, the policy served to place Claimant, and others, on notice of severe consequences for this type of behavior. See Award No. 1, PLB 3684 and Award No. 28, PLB 4121.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Davis - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1991.