

Award No. 12355
Docket No. MSX-14360

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Louis Yagoda, Referee

PARTIES TO DISPUTE:

DEWEY R. MELTON

RAILWAY EXPRESS AGENCY, INCORPORATED

STATEMENT OF CLAIM: My desired award is to be reinstated with R. E. A. (not at Winston-Salem, N. C., but in Chicago, Illinois.)

The fact is that I was indefinitely suspended on December 29, 1961, for being arrested in Winston-Salem, N. C., for public drunkenness, at which time I was off duty. I had reported out sick two days and on the fourth day Agent Bruce Fowler demanded a Doctor's excuse or I would not return to work for R. E. A.

Before my hearing came up Agent Bruce Fowler talked to me and said that I would receive punishment of either demerits or a probation. I felt I deserved either or both and ignorantly plead guilty, since my Union Chairman was on vacation.

Since that time I have learned that a rehearing should have been set. In other words, I trusted Agent Bruce Fowler too much.

I am sending a copy of this letter to Supt. McVay, Greensboro, N. C., and a copy also to Vice Pres. John N. Meisten, who is in charge of all personnel for R. E. A.

I prefer written hearing for my convenience, as well as paid expenses as I have been unemployed a long time, waiting for my Union's final decision.

OPINION OF BOARD: The Claimant was arrested in Winston-Salem, North Carolina, on December 16, 1961, for public drunkenness. On December 18, 1961, he was tried in Municipal Court, found guilty and fined court costs of \$12.60. It is undenied that he failed to report this arrest and conviction to his Agent or Superintendent.

On December 19, 1961, the Claimant was cited for investigation and suspended pending investigation and decision. Carrier conducted investigation on December 26, 1961. On December 29, 1961, decision was rendered dismissing Claimant from the service of the Carrier.

The Claimant demands reinstatement to his former position, but that said reinstatement be to an assignment at Chicago, Illinois, not to his former post at Winston-Salem.

The record shows that the charges made by the Carrier against the Claimant were supported by credible and unchallenged fact, that the acts committed by the Claimant were in violation of the operating rules of the Carrier and the act of dismissal therefor by the employer was not an arbitrary or capricious action under all of the circumstances.

The Carrier's action must therefore be upheld.

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 there was no violation of the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of March 1964.