

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20592
Docket Number CL-20509

David P. Twomey, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship
(Clerks, Freight Handlers, Express and
(Station Employees
(
(George P. Baker, Richard C. Bond, and
(Jervis Langdon, Jr., Trustees of the
(Property of Penn Central Transportation
(Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-7435) that:

(a) The Carrier violated the Rules Agreement, effective February 1, 1968, particularly Rule 6-A-1, when it assessed discipline of dismissal on Claimant Mozell Hollins, Chauffeur, Ft. Wayne, Indiana, Western Region, Ft. Wayne Division.

(b) Claimant Mozell Hollins be restored to service with seniority and all other rights unimpaired, and be compensated for wage loss sustained during the period out of service, plus interest at 6% per annum compounded daily.

OPINION OF BOARD: The Claimant, a Chauffeur with twenty-six years clear service for the Carrier, was charged and found guilty of unfitness for duty because of possession and use of alcohol while on duty. On the date in question, the Claimant was assigned to drive a company bus; and was responsible for the transportation of train and engine crews to and from their trains. There is no doubt that the Claimant was guilty of the charge. In addition to the unchallenged testimony of witnesses, the Indiana State Police administered a "breatholizer" test at the request of the Carrier and with the consent of the Claimant: the results showed that the Claimant had a blood alcohol content of .25%. Under Indiana law, anywhere from .05 to .10 is possible proof of being unfit to drive, while anything above .10 is prima facie evidence for arrest.

The Organization contends that the discipline of dismissal was excessive and unreasonable in view of the Claimant's clear record for a period of 26 years. The Carrier contends that the Claimant's intoxication on duty was an act in defiance of Carrier's rules; that the use of intoxicants while on duty is a most serious offense in the railroad industry; and that the gravity in this case was compounded by the fact that the Claimant was the driver of a motor vehicle being used in the

transport of other railroad employees, whose lives depended upon the Claimant's ability to function properly. Thus, the Carrier contends that the discipline was not excessive or unreasonable.

We find that the Carrier has supported its finding that the Claimant was guilty of the charge. We find that the discipline in this case was not excessive or unreasonable.

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 Employee involved in this dispute are respectively Carrier and Employee 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:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 17th day of January 1975.