

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21721
Docket Number MW-21884

James F. Searce, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Southern Pacific Transportation Company
((Texas and Louisiana Lines)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
that:

(1) The dismissal of Welder J. W. Baggett and Laborer E. D. Hooper on the charge of 'use and possession of alcoholic beverage while on duty on December 24, 1975 near Goodrich, Texas' was without just and proper cause and on the basis of unproven charges (System File MW-76-10).

(2) The benefits and privileges of Agreement Article 14(f) shall now be applied to Claimants Baggett and Hooper.

OPINION OF BOARD: Claimants were discharged, and approximately four (4) months later, reinstated, as a result of a violation of Rule G of Carrier's Rules, when they were involved in an accident with a company truck on Christmas Eve, December 24, 1975, near Goodrich, Texas.

We find Claimants were afforded a fair and impartial hearing and that Carrier's assessment of discipline was based on substantial evidence.

Consistent with a long line of previous decisions, we will not substitute our judgment for that of Carrier in these disciplinary matters unless it is apparent that Carrier acted on an insufficiency of evidence or that its assessment of discipline was excessive, arbitrary or capricious. We find none of those conditions prevalent in this case, and will thus deny the claim.

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;

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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 29th day of September 1977.

