NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 23567
THIRD DIVISION Docket Number SG-23844

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation:

On behalf of Signalmen P. Williams, M. Raino, M. Scholl and F. Barone, who were suspended thirty days for allegedly violating Rule G on July 27, 1979." (Carrier file: System Docket NH-34 Northeastern Region, New Haven Division)

OPINION OF BOARD: Claimants, Signalmen P. Williams, M. Raino, M. Scholl and F. Barove, were taken out of service on July 27, 1979, for alleged Rule G violations, when they were seen by a Carrier official drinking in a bar shortly after noon. On July 31, 1979, Claimants were notified by letter that they should attend a hearing in the matter on August 7, 1979. The hearing was held as scheduled. Claimants were found guilty and subsequently were assessed a 30-day suspension, including actual time off. The Organization filed a grievance in the matter, alleging a procedural violation of Rule 58, untimely holding of the investigation, and maintaining that Claimants had booked off and were not subject to duty while in the bar, drinking. The claim was denied by Carrier and advanced to this Board for resolution.

Carrier argues that Claimants were subject to duty while drinking. Their reporting point was Devon, Connecticut. They were on duty until they clocked out at this point. They are transported from the reporting site to the work site and returned in Carrier vehicles. This means they are subject to duty while in a company vehicle.

Carrier also argues that it did hold the hearing in accordance with Rule 58. Rule 58 gives Carrier the authority to suspend in proper cases and then hold a timely hearing. It suspended Claimants on July 27, charged them by letter on July 31, and held a hearing on August 7.

The Organization argues that Claimants had reported off at noon. The Foreman gave them permission to book off. He told them that he would drive them back to Devon after he ate his lunch. Claimants were not on duty or subject to duty; they were off duty. Thus, no Rule G violation took place. The Organization also argues that Claimants were taken out of service on July 27 and that a hearing was held on August 7. That is eleven days after charges were levied. This is a violation and the claim should be allowed as submitted.

This Board has carefully reviewed the record of this case and must conclude that Carrier is not in violation of the agreement and that Claimants were properly suspended and a timely hearing was held. This Board is also of the opinion that Claimants were under the control of Carrier during the time that they were drinking, since they would not be officially off the clock until they returned to the headquarters point at Devon, Connecticut, and then booked off.

The Board has looked to a number of its previous awards for guidance on just when Carrier has responsibility and subsequent liability for its employes. It subscribes to the concept that while employes are being transported from a work site to a headquarters site, they are under the control of Carrier. (See Awards 20693 and 21705, Lieberman) Claimants in this situation were clearly planning to ride to the headquarters in Devon, Connecticut in the company vehicle. They should not have been drinking until they were out from under company control and the company no longer had any responsibility for them.

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 Employes involved in this dispute are respectively Carrier and Employes 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: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 10th day of March 1982.