

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23935
Docket Number SG-23881

Josef P. Sirefman, 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:

System Docket No. 1476 - Western Region - Appeal of the discipline of dismissal assessed against Messrs. J. Lee and M. Williams, Gary, Indiana."

OPINION OF BOARD: Claimants M. Williams, Signalmen, and J. Lee, Lead Signal Maintainer were both charged on December 5, 1979 with having allegedly abandoned a company vehicle, having allegedly been absent without authorization, having allegedly consumed alcoholic beverages, and with allegedly participating in a fight, all on November 30, 1979. The alleged occurrences were charged as violations of relevant Rules. At the investigation both Claimants admitted to having driven a Carrier truck to a restaurant for lunch, and admitted that they spent more than the half hour allotted having their meal, that they imbibed alcoholic beverages at that time and that they participated in an altercation at the restaurant resulting in their being arrested by local police. As they were not released by the police until well into the next day, Claimants did not return to their work assignment after their lunch on November 30th, and they left Carrier's truck unattended off the property for that length of time. The issue raised by the Organization is that the penalty of dismissal for both Claimants was too harsh and arbitrary.

Claimants actions violated a number of Rules as charged, and these violations singly and certainly cumulatively would warrant discharge. Claimants do not have long tenure with the Carrier (about three years each at the time of the incident). As Referee Dolnick stated in Award 18036, Third Division, "Long years of good and efficient service may be mitigating circumstances only when there is doubtful issue of guilt and when the penalty is too severe for the committed offense. Neither of these apply in this case".

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 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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 30th day of June 1982.

