

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24693
Docket Number MS-25010

Eckehard Muessig, Referee

(Jay Francis McGuinness

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex parte submission on (30 days from date of this notice) covering an unadjusted dispute between Jay Francis McGuinness and Conrail involving the question: Dismissal from position for alleged violation of Rule G and alleged violation of Rule 3002. I wish to return to service with all rights and seniority unimpaired and my good record restored."

OPINION OF BOARD: The Claimant, a Foreman with four and one-half years of service, was charged with Rule G and Rule 3002 violations. Following an investigative hearing, he was dismissed from service for the offense with which charged.

The Carrier points to the undisputed fact that the Claimant's vehicle, while being used by him in the furtherance of his official duties, contained what it described as cold cans of beer, at least one of which was partially empty, placed in the corner of the truck bed. The Claimant does not deny that his vehicle contained beer; he does, however, characterize the beer as "cool". Moreover, he contends that it was placed there the previous day and that he had not consumed any while on duty.

The Board finds that there is sufficient evidence in the record before us to sustain the finding that the Claimant was in possession of beer as charged and, therefore, guilty of violating the cited Rules. Having so found, we will 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 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.

Award Number 24693
Docket Number MS-25010

Page 2

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 24th day of February, 1984

