

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24738
Docket Number MW-24659

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Burlington Northern Railroad Company (formerly St. Louis-
(San Francisco Railway Company)

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

(1) The dismissal of Trackman C. L. England for alleged violation of 'Rules 175 and 182' was without just and sufficient cause and an abuse of justice and discretion by the Carrier (System File B-2014/MWC 81-6-24E).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired, his record be cleared and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant C. L. England had, at the time of his dismissal, approximately four and one-half months service with the Carrier working as a trackman on Tie Gang T-2 11 at Fairland, Oklahoma. His assigned gang, having to work over the lines of the former Frisco Railroad, were provided lodging facilities in camp cars.

On December 19, 1980, the Claimant was removed from service and dismissed. Upon his request, an investigation was held. As a result, the General Chairman was informed on January 13, 1981, that the investigation showed Claimant to be in violation of Rules 175 and 182 and that he would not be returned to service.

The evidence adduced at the investigation established Claimant urinated in a bunk car on another employee's personal effects. We find the transcript of those proceedings substantially supports the Carrier's finding through the testimony of witnesses and by the Claimant's admissions. Claimant attributed his actions of December 17 and 18 to becoming "too drunk". Notwithstanding, the adverse effect of his alcoholic condition, this Board finds no basis to relieve Claimant from the responsibilities of his actions. It is also noted Claimant failed to appear for work on December 18. Clearly, this individual needs professional help as evidenced by his own statements. However sympathetic to the plight of this individual, we find no factors in the record which would mitigate Claimant's offenses.

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

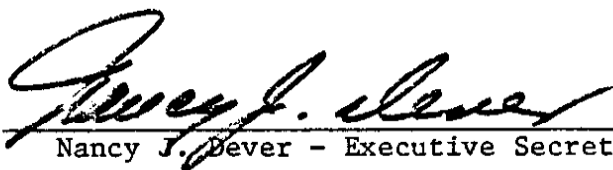
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of March, 1984.

