

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24873
Docket Number SG-2474

Robert W. McAllister, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(National Railroad Passenger Corporation

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corporation:

NEC-BRS-SD-116D. Appeal of R. S. Ambrogi, who was dismissed by notice dated October 23, 1981, for alleged Rule G. violation on October 6, 1981.

OPINION OF BOARD: R. S. Ambrogi, the Claimant, entered the Carrier's service on May 23, 1977. He was dismissed from service for being under the influence of alcoholic beverage while on duty on October 6, 1981, as a signalman. The Organization claims the Carrier has failed to meet its burden of proof and presented no evidence the Claimant was actually under the influence of alcohol and that his responses were impaired. Three witnesses testified the Claimant had the odor of alcohol on his breath. This Board agrees with the Carrier's argument that the smell of alcohol on an employee's breath is generally a sufficient basis upon which to assess discipline, and we so find in this case.

Nevertheless, despite supporting an imposition of discipline, this Board finds the penalty of dismissal unduly harsh when all the circumstances are properly examined. Therefore, the Claimant is to be reinstated with seniority. The lengthy period he has not worked is converted into a disciplinary suspension without pay. This reinstatement is accomplished on a last chance basis. The Claimant must understand the Carrier cannot and will not be expected to tolerate Rule G violations. There is simply no excuse for such conduct.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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

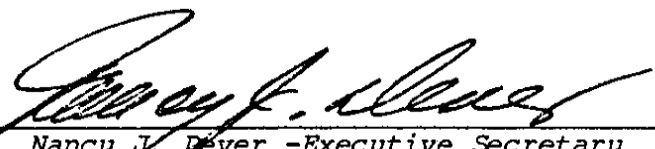
That the discipline was excessive.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever -Executive Secretary

Dated at Chicago, Illinois, this 28th day of June, 1984