

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25193
Docket Number SG-25368

Paul C. Carter, 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.

That the Carrier failed to provide sufficient evidence to support its dismissal of Signalman Ronald C. Smith on the charge "being under the influence of alcohol when reporting for duty at 7:00 a.m., November 24, 1982." Claimant should be restored to service with payment for time lost and seniority and benefits unimpaired. [Carrier File No. SD-2010-D Eastern Region]

OPINION OF BOARD: The Claimant herein is the same as involved in Award No. 25192.

As the Claimant's dismissal was upheld in that case, the Board could hold that his employer-employee relationship has been terminated, and dismiss the present dispute. However, as the alleged offense herein occurred while the Claimant was an employee of the Carrier, we will decide the present dispute on its merits.

Claimant, a Signalman, had been in Carrier's service about four years. On November 30, 1982, he was notified to attend a trial on the charge:

"Being under the influence of alcohol when reporting for duty at 7:00 AM, November 24, 1982."

The trial was held as scheduled on December 6, 1982, with the Claimant present and represented. A copy of the transcript of the trial has been made a part of the record. Upon review of the transcript we find that the trial was conducted in a fair and impartial manner. None of Claimant's substantive procedural rights was violated.

In the trial substantial evidence was adduced in support of the charge against the Claimant. A Supervisor C&S testified that Claimant entered the office about 7:30 A.M. and made the comment that his tools had been stolen, at which time he noticed that Claimant's speech was slurred, his eyes were red, and that he was sort of "staggering and listing". He went on to state that he could smell alcohol when he got close to Claimant.

A Trainmaster, who was asked by the Supervisor C&S to observe Claimant, testified that Claimant appeared to be glassy-eyed, his speech was slurred, and when he went to walk across the room his steps were uneven.

An Office Engineer testified that he noticed that Claimant's speech appeared to be slurred.

Claimant stated that he had engaged in drinking for some six hours the previous evening, after work, but denied that he had engaged in drinking on the morning of November 24, 1982. Also in the investigation some question was raised as to Claimant not being given a sobriety test. It is well settled by numerous awards of this Board that laymen are competent to judge intoxication, without the need of medical or other scientific tests.

There is no proper basis for this Board to interfere with the discipline imposed by the Carrier.

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 11th day of January 1985.

