

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26080
Docket Number MW-26296

John W. Gaines, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Consolidated Rail Corporation

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

1. The dismissal of Trackman W. T. Bailey for alleged violation of Rule 'G' and/or Rule '3010' on October 26, 1983 was without just and sufficient cause (System File CR-588-D).

2. Trackman W. T. Bailey shall now be allowed the benefits prescribed in Section 4 of Agreement Rule 27."

OPINION OF BOARD: Claimant, a Trackman, was placed out of service during a scheduled tour of duty and, following a Hearing, was dismissed from service by Carrier. The Claimant was charged with being under the influence of alcohol while on duty.

Carrier offers corroborating testimony taken at the Hearing. Witnesses testified that the extent to which Claimant was under the influence had marked bearing on the appearance, action, and observed behavior: he was clearly impeded by it while on duty.

The offense is serious and, understandably so, amounts to direct violation of the Conrail Safety Rules for Maintenance of Way Employes, according to the charge heard against Claimant.

Imposing the severe penalty of dismissal is judged by Carrier to be warranted here, and the reason is the peril and very gravity of this offense. By the same reason, we are not disposed to substitute our judgment or disturb Carrier's judgment.

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 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 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 31st day of July 1986.