

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(The Chesapeake and Ohio Railway Company
(Southern Region)

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

(1) The thirty (30) days of suspension imposed upon Laborer J. F. Chaney for alleged 'possession and consumption of intoxicants ... on May 30, 1984 and conduct unbecoming an employee ... on May 31, 1984' was without just and sufficient cause, on the basis of unproven charges and excessive (System File C-D-2375/MG-4749).

(2) The claimant's record shall be cleared of the charged leveled against him and he shall be compensated for all wage loss suffered."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Following an investigative hearing, the Claimant was assessed a 30-day disciplinary suspension on the following charges:

"You have been found at fault for consumption of intoxicants near Julian, W. Va., on May 30, 1985, and for conduct unbecoming an employee near McCorkle, W. Va., on May 31, 1984."

A review of the record of the investigation provides full support for the action of the Carrier in this matter. A fellow employee reported to the Foreman that he had observed the Claimant, while on duty, packing ice around beer in his lunch cooler. On the following day, as shown by testimony of others and the admission of the Claimant himself, the Claimant "roughed up"

Form 1
Page 2

Award No. 26760
Docket No. MW-26572
88-3-85-3-319

the fellow employee, apparently based on his report to the Foreman the previous day. The Foreman also testified that the Claimant had admitted to him that he had consumed some of the beer. There is no basis to dispute the conclusions reached by the Carrier in this matter, and the resulting discipline was appropriate.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 15th day of January 1988.