

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 Railroad Signalmen
(Seaboard System Railroad (former L&N)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard System Railroad (formerly Louisville and Nashville Railroad Company):

On behalf of G. W. Broady for reinstatement to his former position and paid for all time lost beginning July 23, 1985, account of the Carrier failed to prove charges against him at the investigation held on July 23, 1985. Carrier file 15-55 (86-6) L."

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 employes 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 dismissed from service based on the following:

"This refers to formal investigation afforded you on July 23, 1985, relating to your being charged with responsibility in connection with violation of Rule G, Safety Rules of the Signal Department, in that on June 22, 1985, you were occupying lodging furnished by the Seaboard System Railroad, namely Drury Inn, Trinity Lane, Nashville, Tennessee, while under the influence of intoxicants and/or narcotics; Also charged with violation of Rule G-1, Safety Rules of the Signal Department in that on the morning of June 22, 1985, you deserted your position by failure to protect it

in Signal Gang No. 6, working in Nashville Terminal and have continued to be absent without permission from that same position due to being arrested and incarcerated on charges of leaving the scene of an accident involving a fatality on Interstate 40, Nashville, Tennessee at about 3:30 A.M., June 22, 1985.

The investigation clearly developed that you were in violation of Rule G of the Safety Rules of the Signal Department, in that you were indeed occupying facilities paid for by the Seaboard System Railroad Company while under the influence of intoxicants on June 22, 1985 and further was in violation of Rule G-1 of the Safety Rules of the Signal Department when you failed to protect your assignment as Signalman on Signal Gang No. 6, working in Nashville Terminal, thereby being absent without permission.

Based on the above facts, you are hereby dismissed from the service of the Seaboard System Railroad Company."

Following an automobile accident in which the Claimant's vehicle was involved, the Claimant was found at lodging facilities provided by the Carrier. At this point, he had already failed to report for work on June 22, 1985, and had given no notice of his absence. The record shows that a blood test administered to the Claimant established with a high degree of certainty that the Claimant was under the influence of alcohol at the time he should have reported to work and while he was on premises furnished by the Carrier.

Although he was incarcerated thereafter until July 4, 1985, he made no attempt to report for work until July 16, 1985, thus failing to meet his obligation to protect his position.

The reason for discharge does not concern itself with the Claimant's later extensive incarceration in jail. Based on proof of the charges, denied to only a minor degree by the Claimant, the Board has no basis to disturb the Carrier's conclusion that the Claimant was in violation of established rules of conduct and no longer suitable for employment.

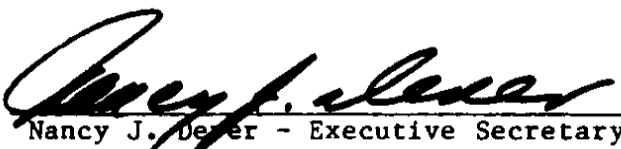
A W A R D

Claim denied.

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Award No. 27601
Docket No. SG-27523
88-3-86-3-788

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 27th day of October 1988.