

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

(Lawrence A. Gortowski
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"This is to serve notice as required by the rules of the National Railroad Adjutstment (sic) Baorad (sic), my intention to file an ex parte submission on 30 days of notice covering an unadjusted dispute between me and my Railroad 'CONRAIL' involving my recovery from ALCOHOL."

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 were given due notice of hearing thereon.

At issue is Claimant's dismissal on December 17, 1982, from Carrier's service for an unauthorized absence, violation of a safety rule, and insubordination on November 12, 1982.

The discharge was appealed and was progressed to Carrier's highest appellate officer, who denied the appeal. He reaffirmed his denial in February 1984, and the Employees were granted extensions of time in which to present the case to a Board.

Claimant ultimately advanced the claim to this Board on August 9, 1988. He seeks restoration to service as of July 5, 1983, alleging that he has subsequently recovered from alcoholism.

Given the failure to advance this claim for more than four years and the lack of any mitigating circumstances, the Board must conclude that it was untimely filed. While valid reasons for delay will be considered, Claimant has failed to show good cause for the hiatus in processing the Claim. Acquiescence to Carrier's final decision must therefore be assumed.

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Docket No. MS-28469
89-3-88-3-308

Even if this Board were to consider Claimant's case, we would have no basis for sustaining it. It is unrefuted that Claimant called his Supervisor a "***** bitch," was under the influence of alcohol, and was absent without authorization. The record shows that he had to be removed from the property by Carrier police.

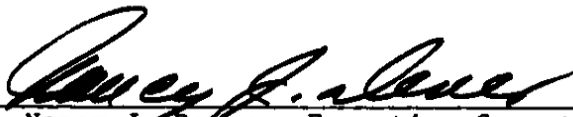
Given the proven facts, the only grounds on which Claimant could be returned to service would be on a leniency basis. It has long been an accepted tenet in the industry that neutral Boards have no authority to grant such leniency. That option lies solely with the Carrier.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1989.