

PUBLIC LAW BOARD NO. 1760

Award No. 106

Docket No. 106
N&W File MW-DEC-85-40

Parties to Dispute Brotherhood of Maintenance of Way Employees
 and
 Norfolk and Western Railway Company
 (Former Wabash)

Statement of Claim: Claim on behalf of D. K. Borrer requesting reinstatement and pay for time lost appealing his dismissal for the violation of Rule G.

Findings: The Board has jurisdiction of this case by reason of the parties Agreement establishing this Board therefor.

Claimant Laborer, on October 7, 1988, was filling the position of Track Patrolman. He telephoned the Agent at Taylorville between 10:00 AM and 10:30 AM in order that his patrol trucks number would be put on the afternoon line up. That was a prerequisite for obtaining permission to set the patrol truck on the rail of this particular track segment. The Claimant's voice did not sound right to the Agent. He thought that he was slurring his words. The Agent's concern caused him to attempt to contact Assistant Roadmaster Kenneth Marit through the Dispatcher. Marit contacted the Agent who advised him of his concern and requested that he come to Taylorville to talk to Claimant.

Claimant Track Patrolman arrived at the Taylorville Depot about noon. He had to line a nearby switch so he left the depot and accompanied a truck to accomplish this task. Mr. Marit arrived at the depot and called over the radio for Claimant to come to the depot. After talking to Marit the Claimant was transported to Decatur where he was given a blood test. The specimen taken at 2:59 PM resulted in a positive showing of 0.14% alcohol, ethyl (B). He was removed from service pending an investigation. He was formerly charged October 13 and cited to the formal investigation on the charge of violating Rule G.

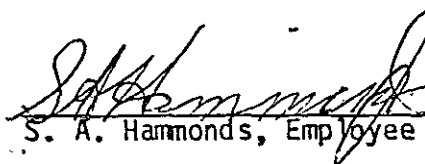
Following the investigation, held on December 8, he was found culpable and dismissed from service as discipline therefor.


Claimant was accorded the due process to which entitled under his discipline rule.

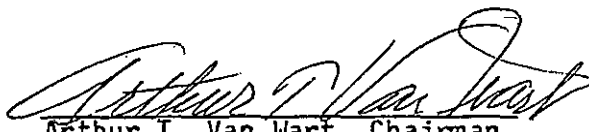
There was sufficient evidence adduced, including the admissions of Claimant, to support the conclusions reached by Carrier as to Claimant's guilt.

Railroad employees, are well aware that a Rule G violation is a cardinal offense and that dismissal is the norm therefor. Claimant was previously dismissed for a Rule G violation. He participated in Carrier's rehabilitation program. Claimant failed when given a second chance. This claim will be denied.

Award: Claim denied.


S. A. Hammonds, Employee Member


E. F. Miller, Jr., Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued February 23, 1990