

PUBLIC LAW BOARD NO. 2206

AWARD NO. 64

CASE NO. 66

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE  
OF WAY EMPLOYEES

and

BURLINGTON NORTHERN RAILROAD

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The dismissal of Sectionman Philip D. Wika was without just and sufficient cause and wholly disproportionate to the alleged offense. (System File T-M-282C)
2. Sectionman Philip D. Wika be returned to service, paid for all straight time and overtime that he could have worked had he not been dismissed from service.

OPINION OF BOARD:

In October 1979 Claimant was assigned as Sectionman on Surface Gang No. 3 at Doon, Iowa on the Twin City Seniority District. He failed to show up for work on Thursday, October 11, 1979 and did not contact his supervisor at any time that day. On October 15, 1979 he was notified to appear for investigation into his "alleged absence from duty without proper authority on October 11, 1979". Claimant appeared at the investigation on October 25, 1979 with his representative, Vice Chairman Klippenes of the BMWE. At the investigation, Claimant admitted being absent without authority and stated that the reason for this was because he "was in no shape to drive to work"

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due to drinking the night before. He further stated that he had an alcohol problem and "would like to dry out". He concurred with his representative's statement that he "would like to enter a social program with the BN where he could take treatment to overcome the problem of alcohol".

After reviewing the evidence, and in consideration of Claimant's unfuted prior disciplinary record of five, fifteen and thirty day suspensions for being AWOL on several occasions during the period June-October 1978, Carrier terminated his employment. On appeal it was developed that Claimant had enrolled in Carrier's Alcohol Dependency Program for treatment but did not stay the course and failed to follow through on the counselor's recommendations. Had Claimant demonstrated a solid effort to deal with his problem, perhaps a different result could be reached in this case. However, the burden was upon him to show that in addition to admitting his problem he was making an effort to do something about it and stood a reasonable chance of recovery. He has failed to do so on this record and Carrier was not unreasonable in concluding that he was either unable or unwilling to maintain regular and punctual attendance at work.

AWARD

Claim denied.

F. H. Furr  
Employee Member

W. Holynsky  
Carrier Member

Dana E. Eischen, Chairman

Date: November 30, 1982