

Award No. 34  
Case No. 70

Public Law Board No. 2363

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employees  
and  
Louisville and Nashville Railroad Company

STATEMENT  
OF  
CLAIM:

(1) The dismissal of Cook W. A. Cotton for allegedly "being absent from his job and for use of intoxicants while on duty" was without just and sufficient cause and on the basis of unproven and disproven charges (System File 1-12 (10) (79)).  
(2) Cook W. A. Cotton shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered.

FINDINGS:

Claimant, a cook with Timbering Gang No. 50, was dismissed for being absent from his job and using intoxicants while on duty. He had about five years service.

There is credible evidence in the record that he had been absent without permission or adequate explanation, unduly long on the morning in question and that his eyes were

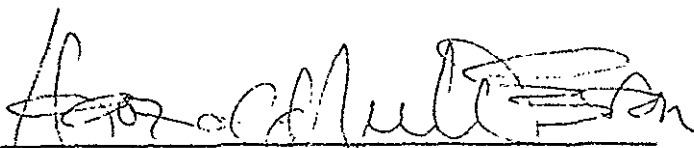
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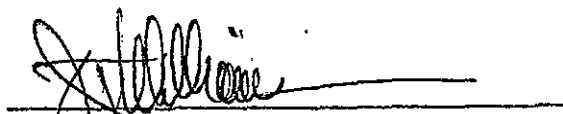
bloodshot, his face flushed and the odor of alcohol was detected on him upon his return to the gang's campsite. We are satisfied that Carrier's findings are supported by the record.

It is our opinion that claimant should be given another opportunity to demonstrate that he can be relied upon by Carrier for responsible service. We will direct Carrier to offer him reinstatement with seniority rights unimpaired, but without back pay just as soon as an official of its Employee Assistance Program notifies Carrier that claimant has entered that Program and is participating in it and is ready to resume his duties as a cook.

AWARD: Claimant to be reinstated without back pay subject to the conditions mentioned above in the last sentence of the Findings.

Adopted at Louisville, Kentucky, February 27, 1981.

  
Harold M. Weston, Chairman

  
Carrier Member

  
Employee Member