

PUBLIC LAW BOARD NO. 3308

Award No. 9  
Case No. 9

PARTIES  
TO  
DISPUTE

Brotherhood of Maintenance of Way Employees  
The Atchison, Topeka and Santa Fe Railway Company

STATEMENT  
OF CLAIM

"Claim that former Albuquerque Division Trackman L. R. Selin be reinstated with seniority, vacation and all other benefit rights restored and that he be compensated for all wage loss and/or made whole, beginning October 23, 1981, account unjustly removed from service for being under the influence of alcohol and in the possession of alcohol, as well as having an unauthorized person in the outfit car where he was lodging, as a result of investigation held on November 13, 1981."

FINDINGS

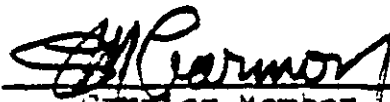
Upon the whole record, the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

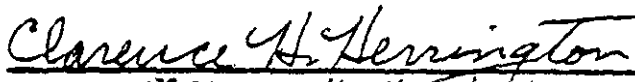
The transcript of record reveals that on Friday, October 23, 1981, the Claimant was a member of Extra Gang 62 which was scheduled to go to work at 7:30 A.M. That morning the Claimant failed to report as scheduled. At approximately 9:00 A.M., Claimant's foreman and the roadmaster went to the outfit car, where the Claimant was staying, to determine why he had not reported for duty. At that time, they found the Claimant under the influence of alcoholic beverages, in possession of an alcoholic beverage and an unauthorized female in the outfit car. We have reviewed the

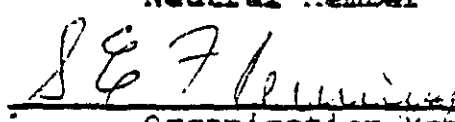
transcript of the Hearing held in this matter and find sufficient evidence of probative value was presented at the Hearing to support the charges.

We do not find that Carrier's penalty of dismissal was excessive or too severe, especially in view of the fact that Claimant had previously been suspended on two previous occasion, one for 120 days and another for 180 days, the latter for violations of Rule 6 (commonly referred to as "Rule C"). We will not disturb the discipline. We find that the Agreement was not violated.

AWARD Claim denied.

  
Carrier Member

  
Clarence H. Herrington  
Neutral Member

  
Organization Member