

Case No. 3
Award No. 3

PARTIES TO DISPUTE: * BROTHERHOOD OF LOCOMOTIVE ENGINEERS
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 *
 * -and-
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 * ELGIN, JOLIET AND EASTERN RAILWAY COMPANY
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STATEMENT OF CLAIM:

Claim of Engineer Lee C. Broadstone for reinstatement to service with full seniority unimpaired and pay for all time lost as a result of an investigation held on January 7, 1982.

FINDINGS:

This Board, upon the whole record and all the evidence finds as follows:

That the parties were given due notice of the hearing.

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act as approved June 21, 1934.

That his Board has jurisdiction over the dispute involved herein.

The facts giving rise to the instant case are undisputed. The Claimant began employment with the Carrier as a Locomotive Engineer on January 21, 1965. He was subsequently promoted to the position of Locomotive Engineer. On December 1, 1981, the Claimant was working on the 3:00 P.M. Gary Sheet and Tin Mill assignment. At approximately 5:15 P.M., he requested to go home since he felt ill. He was thus motored to the Carrier's Kirk Yard Roundhouse at Gary, Indiana. At approximately 7:15 P.M., Roundhouse Foreman R. L. Seipler observed the Claimant in the Roundhouse. After smelling the odor of alcohol on his breath, and watching his demeanor and gait, Seipler concluded that the Claimant was intoxicated. After being asked by Foreman Seipler if he had been drinking, the Claimant admitted having a few drinks prior to coming to work. Foreman Seipler then asked the Claimant to report to the dispensary to be examined. At first the Claimant agreed, but then he changed his mind and went home.

The Carrier charged the Claimant with being under the influence of alcohol while in the Roundhouse in Kirk Yard, thereby violating Rule G of the Carrier's Rules of the Operating Department. On January 7, 1982, an investigation was conducted by the Carrier. At the

investigation, the Claimant did not deny the charge. However, he admitted that he was an alcoholic, and advised the Carrier that he had admitted himself to the in-patient alcoholic treatment program at Ingalls Memorial Hospital in Harvey, Illinois on December 2, 1981. He further stated that he had completed this in-patient treatment program on January 4, 1982, and had commenced out-patient treatment under the supervision of one of the Hospital's out-patient therapists.

The Carrier, after reviewing the entire record, determined that the Claimant had been under the influence of alcohol at the Kirk Yard Roundhouse, thereby violating Rule G of the Rules of the Operating Department. After reviewing the Claimant's prior record, which contained two similar violations, the Carrier, by letter dated January 12, 1982, dismissed the Claimant from service, effective that date. Various appeals of this decision were taken on the property, all of which were denied. Thereafter, this claim was progressed to this Board for adjudication.

While not conceding that the Claimant violated Rule G, the Organization maintains that the Claimant suffered from alcoholism, which is now widely recognized as a disease. Consequently, he should not be dismissed from service because of this disease. The Organization further asserts that the Claimant has sought treatment for his problem which should be recognized by this Board.

The Carrier argues that since this was the Claimant's third violation of Rule G, his dismissal from service was thereby warranted. In support of its position, the Carrier refers this Board to Awards 22957, 9281, 21723 and 3553 of the First, Second, Third and Fourth Divisions of the National Railroad Adjustment Board.

Rule G of the Operating Department provides in, pertinent part, as follows: "The use of intoxicants . . . by employees subject to duty, while on duty, while on the Carrier's property or on the property of others where employers of this Company work, is prohibited." We recognize that one's violation of Rule G constitutes a serious infraction warranting, in most cases, dismissal from service. The Claimant admitted that he had consumed alcohol prior to beginning work. Thus, it is obvious that he violated Rule G as claimed by the Carrier. Under normal circumstances his dismissal would be warranted.


However, this Board recognizes the special circumstances attendant this case. The Claimant is an alcoholic and, most importantly, he recognizes that he is an alcoholic. On December 1, 1982, the day immediately following the incident in question, the Claimant, on his own volition, admitted himself to the in-patient alcoholic treatment program at Ingalls Memorial Hospital. He remained in this program until January 4, 1982 when he was satisfactorily released by the staff administering the program. After this release, he continued to receive treatment in the Hospital's out-patient program and agreed to attend regular Alcoholic Anonymous meetings.

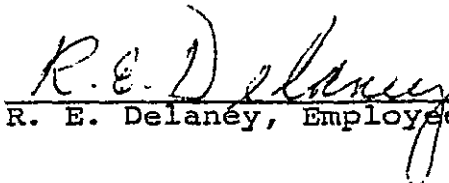
Alcoholism is widely recognized as a disease; but it is a disease that can be treated. The Claimant has demonstrated to us that he was sincere about treating his disease through his admittance to the in-patient and out-patient alcoholic treatment programs at Ingalls Memorial Hospital, and by his attendance at Alcoholic Anonymous meetings. He has also convinced this Board that his alcoholism is presently under control and that he can be a productive employee. Therefore, although the Carrier had the right to discharge the Claimant, we conclude that in light of the Claimant's sincere desire and successful effort to control his alcohol problem, he should be reinstated to service with his full seniority rights unimpaired, but without any pay for lost time. However, we must admonish the Claimant that his return to employment with the Carrier is contingent upon his faithful participation in the Carrier's Employee Assistance Program.

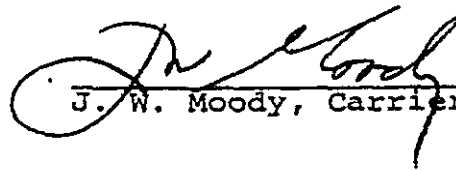
Based on the foregoing, we submit that Engineer Lee C. Broadstone must be reinstated to service with his full seniority rights unimpaired, but without pay for any time lost. We further submit that his continued employment with the Carrier is contingent upon his faithful participation in the Carrier's Employee Assistance Program.

AWARD:

Claimant is to be reinstated to service with full seniority rights unimpaired but without pay for any time lost. Carrier is directed to make this Award effective on or before 30 days from the date hereof.


Robert M. O'Brien, Chairman and Neutral Member


R. E. Delaney, Employee Member


J. W. Moody, Carrier Member

Dated: June 8, 1984