

PUBLIC LAW BOARD NUMBER 3445

Award Number: 20

Case Number: 20

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
And

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM:

Crane Operator, W.B. Turner, 83 Santa Barbara Drive, Hampton, Virginia 23666 was dismissed from service for allegedly violating Rule "G". Employee request pay for time lost, reinstatement with vacation and seniority rights unimpaired.

FINDINGS:

On April 7, 1983, Claimant reported for duty as a crane operator at Richmond, Virginia. While speaking to Claimant that morning, Track Supervisor P.G. Burkholder detected what he thought to be the odor of alcohol on Claimant's breath. Burkholder asked Claimant to step into his office, where he requested that Claimant submit to a blood alcohol test. Claimant accepted, and both a blood and urine sample taken from Claimant showed the presence of alcohol in his system.

As a result of this incident, Claimant was charged with violation of

Carrier's Rule G, which prohibits employees from reporting for duty while under the influence of alcohol or drugs. A hearing was held in order to investigate the charge, and on the basis of the evidence adduced during the investigation, Carrier determined that Claimant had violated Rule G as charged and that he should be dismissed.

The Organization filed a claim protesting Carrier's actions and requesting that Claimant be returned to service with seniority and other rights unimpaired, and with back pay for all time lost. The Claim was denied at all levels of appeal on the property, and the Organization then submitted the matter to this Board for resolution.


The issue to be decided in this dispute is whether Claimant was dismissed for just cause; and if not, what should the remedy be.

The record shows that Claimant's blood test showed a blood alcohol content of .104% on the day in question. Clearly, Claimant reported to work under the influence of alcohol. The fact that Claimant may have been taking a cold medicine, as the Organization contends, in no way mitigates the offense; Rule G flatly prohibits employees from reporting to work under the influence of alcohol. Whether that alcohol came from a whiskey bottle or a medicine bottle is irrelevant.

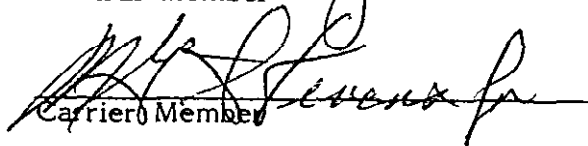
Since Rule G provides for dismissal of an employee who reports for duty while under the influence of alcohol, it cannot be held that Claimant's termination was harsh or excessive under the circumstances. Accordingly, the claim must be denied.

AWARD:


Claim denied.



Neutral Member



Carrier Member



Organization Member

Date:

Nov. 13, 1994