

PUBLIC LAW BOARD - No. 3514

Case No. 119 Award No. 116

PARTIES Consolidated Rail and Brotherhood of Maintenance
 to Corporation of Way Employees
DISPUTE:

STATEMENT OF CLAIM:

Appeal of Trackman William Evans to have the discipline of dismissal removed from his record and to be restored to the service.

FINDINGS: The Claimant was subject to an investigative hearing on a charge that he was under the influence of alcohol or other intoxicants while on duty. Following the investigation, the Carrier determined that the Claimant was guilty of the charge and he was dismissed from the service.

The general issue here is whether, under the facts of record and under principles applied by Public Law Boards, the Carrier had proper cause for dismissing the Claimant or whether some lesser penalty would be sufficient.

We have thoroughly reviewed the record and it cannot be properly said that the Carrier lacked substantial evidence for concluding that the Claimant was guilty of the charge.

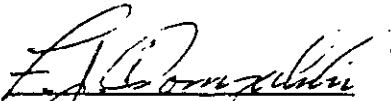
However, while the Board does not in any manner minimize the seriousness of the violation, because it may warrant dismissal, we note that the Claimant has had some thirty-three years of relatively discipline-free service.


Under the circumstances prevalent herein, it is our opinion that the discipline assessed was unduly harsh. We hold that the time out of service is sufficient penalty.


Accordingly, the Claimant shall be restored to service with seniority and other rights restored, but without back pay. The Claimant is to understand that the purpose of this Award is to give him one last chance to become and remain a dependable and reliable employee and that further major infractions of the rules on his part will result in the permanent termination of his service.

AWARD

The claim is sustained as specified in the Findings.


F. J. Domzalski
Carrier Member


Eckehard Muessig
Neutral Member


J. P. Cassese
Employee Member

Dated: DEC 4 1988