

PUBLIC LAW BOARD NO. 3765

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	* Consolidated Rail System Federation	*
Parties	* Brotherhood of Maintenance of Way	*
to the	* Employees	* Case No. 37
Dispute	*	*
	* vs.	*
	*	*
	* Grand Trunk Western Railroad Company	*
	*	*

STATEMENT OF CLAIM

That Mr. Wizinsky be returned to service with time already held out of service to apply as discipline.

OPINION OF THE BOARD

Claimant A.R. Wizinsky was employed as a Trackman on the Timber Turnout #2 Gang. On August 4, 1988, Mr. Pope, the Production Engineer, overheard Claimant on the Company radio, talking about his truck not starting. When Mr. Pope went to see what was wrong, he discovered that the Claimant had backed his truck into a fence and it would not start. Mr. Pope also smelled

alcohol on Claimant's breath. Claimant was taken to a hospital for testing. His test results showed a blood alcohol level above the intoxication level. On August 9, 1988, Claimant was notified as follows:

You are hereby notified that an investigation is scheduled to be held at 1000 hours on Tuesday, August 30, 1988 in the Supervisor of Track's office at 207 Bush Street, Valparaiso, Ind. for the purpose of determining your responsibility, if any, for violating Rule 3000 of the Grand Trunk Western R.R. Safety Rules for Maintenance of Way and Structures, Communication and Signal Employees, as a result of having been observed with the odor of alcohol on your person at the Track Department compound at Blue Island, Illinois on Thursday, August 4, 1988 at approximately 1000 hours; AND for allegedly causing approximately \$200.00 damage to the Grand Trunk compound fence at Blue Island, Illinois on Thursday, August 4, 1988 at approximately 1000 hours.

A hearing into the matter was held as scheduled on August 30, 1988. Claimant chose not to attend, but he was represented by an Organization Vice Chairman. A review of that record reveals that Claimant was under the influence of alcohol while on duty and that he did knock over a fence with the Company truck.

Claimant was referred to the EAP Counselor, but, according to the record, he did not attend. Carrier is not obligated to continue this employe in service. He has been given a chance to help himself, but he has not done so. This Board has no power to force the Claimant to attend the EAP program or force Carrier to continue Claimant in its employ.

AWARD

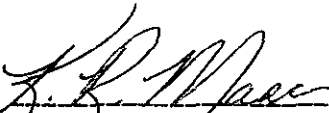
The claim is denied.



R.E. Dennis, Neutral Member



Jo A. DeRoche, Carrier Member



K.R. Mason, Employe Member

February 20, 1991