

PUBLIC LAW BOARD NO. 3765

Parties
to the
Dispute

BROTHERHOOD OF MAINTENANCE OF
WAY EMPLOYEES

vs.

GRAND TRUNK WESTERN RAILROAD
COMPANY

Case No. 49

STATEMENT OF CLAIM

Request that Mr. Szymczak be returned
to service with time already served to
apply as discipline.

OPINION OF THE BOARD

Robert G. Szymczak, the Claimant, was at the time of
the incident that gave rise to this claim employed as a
First Class Carpenter at Battle Creek, Michigan. On July 2,
1990, Claimant was sentenced to the Sheawassie County Jail
for 76 days. He was arrested and jailed for operating a
motor vehicle while under the influence of alcohol.

Claimant used his vacation time to cover him from July
2, 1990, through July 8, 1990. He was officially absent
from work on July 9, 1990. He remained off from work during

the period of his incarceration. He served a total of 64 days in jail, with time off for good behavior.

On July 26, 1990, Carrier notified Claimant that he was being charged with excessive absenteeism. He was ordered to appear for an investigation into the matter. The notification reads in pertinent part as follows:

This formal investigation is being held to determine your responsibility, if any, for alleged excessive absenteeism and failure to protect your job assignment on the following dates:

July 9, 1990	8 hours
July 10, 1990	8 hours
July 11, 1990	8 hours
July 12, 1990	8 hours
July 13, 1990	8 hours
July 16, 1990	8 hours
July 17, 1990	8 hours
July 18, 1990	8 hours
July 19, 1990	8 hours
July 20, 1990	8 hours
July 23, 1990	8 hours
July 24, 1990	8 hours
July 25, 1990	8 hours
July 26, 1990	8 hours
July 27, 1990	8 hours

The investigation was eventually held on September 6, 1990. As a result of that hearing, Claimant was found guilty of excessive absenteeism and failure to protect his assignment on the dates specified in the Letter of Charges. Claimant was assessed a penalty of dismissal.

This Board has reviewed the record, together with the transcript. Based on that review, we find no grounds to overturn Carrier's action in this instance. Claimant has had considerable problems in the past with absenteeism and the use of alcohol. He has been in Carrier's EAP Program on at least two occasions, but he has failed to solve his problem with alcohol.

On numerous occasions, this Board has granted employees a last chance when they warranted it to solve their drug or alcohol problems and become worthwhile employees. We are not convinced, however, that Claimant has demonstrated that he seriously intends to solve his problem with alcohol. Based on his long years of service, however, the Board does not want to completely close out Claimant's chance to return to work for Carrier. The Board will therefore uphold his dismissal, but hold it in abeyance for one year. If Claimant enrolls in Carrier's EAP Program and participates to Carrier's satisfaction, and also enrolls in Alcoholics Anonymous and becomes a serious participant, he can then apply to Carrier for leniency reinstatement. It will be solely up to Carrier whether Claimant is returned to work. If, after one

year, Carrier decides that Claimant shall not be reinstated, his removal shall become effective.

AWARD

The claim is denied with the conditions set forth above.

R.E. Dennis

R.E. Dennis,
Neutral Member

J.A. DeRoche,
Carrier Member

K.R. Mason

K.R. Mason,
Employee Member

Date of Adoption