

BEFORE PUBLIC LAW BOARD NO. 6239

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

CSX TRANSPORTATION

Case No. 7

STATEMENT OF CLAIM:

Appeal of dismissal of Claimant Daniel W. Campbell as a result of investigation held August 17, 2000, in connection with Claimant's alleged violation of Carrier Safety Rule 21/Rule G.

FINDINGS:

Claimant Daniel W. Campbell was employed by the Carrier's engineering department at the time of this claim.

On June 21, 2000, the Carrier notified the Claimant to appear for a formal investigation to determine his responsibility, if any, in regards to his having violated Carrier's Safety Rule 21/Rule G in connection with his June 15, 2000, confirmed positive breath alcohol test. The Carrier charged the Claimant with failing to comply with the conditions of the Carrier-approved rehabilitation and after-care program (EAP treatment) that the Claimant was participating in at the time of this incident since the Claimant had previously tested positive and signed a Rule G Waiver in 1998. This positive breath alcohol test on June 15, 2000, was his second in less than five years.

After one postponement, the hearing took place on August 17, 2000. On September 1, 2000, the Carrier notified the Claimant that he had been found guilty of all charges and was being assessed discipline of dismissal from all services effective that date.

The Organization filed a claim challenging the Claimant's dismissal.

The parties being unable to resolve the issues, this matter came before this Board.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant violated his Rule G Waiver by testing positive for alcohol on June 15, 2000. In 1998, the Claimant signed a Rule G Waiver after testing positive at that time in which he agreed that any reported non-compliance with his after-care plan within five years of his return to service would result in a hearing on the Rule G charge. This positive test constituted a non-compliance; and, therefore, the Claimant subjected himself to dismissal.

Given the fact that the Claimant has tested positive twice within five years, he subjected himself to dismissal. Therefore, the claim must be denied.

AWARD:

The claim is denied.



PETER R. MEYERS
Neutral Member