

Public Law Board Number 1075 -- Case Number 1

Brotherhood of Locomotive Engineers

and

Houston Belt and Terminal Railway Company

Statement of Claim

Removal of record of discipline from the record of Engineer E. R. Stalcup and Compensation for time lost resulting from "10 days suspension" following investigation held May 12, 1972.

Introduction

The Houston Belt and Terminal Railway Company and Engineer E. R. Stalcup involved in this dispute are, respectively, Carrier and Employee within the meaning of the Railway Labor Act, as amended. Engineer E. R. Stalcup was represented at the Hearing on March 20, 1973 by the Brotherhood of Locomotive Engineers, hereinafter referred to as "the Organization." Public Law Board Number 1075 has jurisdiction over the dispute here involved.

The Carrier said they received a report that Engineer Stalcup had been arrested on April 22, 1972 and charged with "driving while intoxicated." Special Services (security forces for the Carrier) investigated the report and found that this was a second offense and that Stalcup had been arrested on February 10, 1972 for a "DWI" and subsequently pleaded guilty.

The Carrier submitted a copy of the Uniform Code and Operating Rules in effect from June 2, 1968 (Carrier Exhibit 1) and on page 5 there was a rule stating:

G. The use of intoxicants or narcotics is prohibited. Possession of intoxicants or narcotics while on duty is prohibited.

and on page 6:

N. Courteous deportment is required of all employees in their dealings with the public, their subordinates and each other.

Employees must conduct themselves in such manner and handle their personal obligations in such a way that their railroad will not be subject to criticism or loss of good will.

Employees must not be:

- (1) Careless of the safety of themselves and others.
- (2) Negligent.
- (3) Insubordinate.
- (4) Dishonest.
- (5) Immoral.
- (6) Quarrelsome or otherwise vicious.

Employees must not enter into altercations, play practical jokes, scuffle or wrestle on company property.

They must show on time-slips, time-books, or payroll required information as to work actually performed.

The Carrier contended that matters that become a public record subjected the Carrier to unfavorable publicity; thus when Stalcup's name appeared on the "show up sheet" in the Harris County Sheriff's office showing that Stalcup was charged with a DWI, the Carrier would be subject to unfavorable publicity for Stalcup's behavior. The Carrier argued that a 10 day suspension was lenient because it was critical to the carrier that their locomotive engineers be of good background.

The Organization contended that Stalcup pleaded guilty to the DWI charge because that was the least expensive thing to do and that, in fact, Stalcup was not drunk while driving. The Organization argued that there was neither a loss of good will nor did the Carrier receive any unfavorable publicity because there was no public proclamation or widespread public disclosure of Stalcup's arrest.

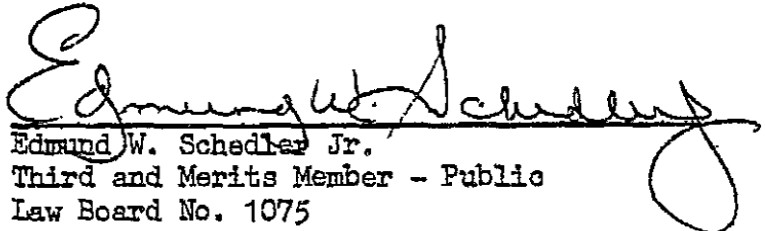
Opinion and Award

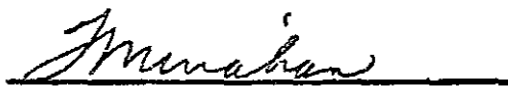
This grievance deals with the question of whether or not a Carrier can discipline an employee for the employee's misconduct away from work. Rule B of Carrier Exhibit 1 says, among other things:

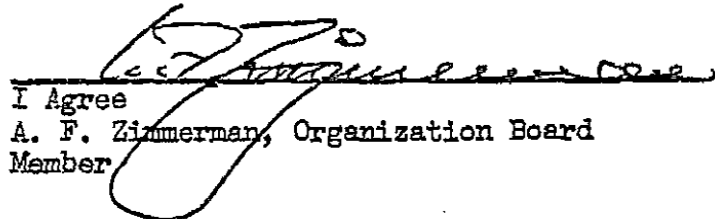
B. Employees must have a proper knowledge of and obey all rules and instructions in whatever form issued, applicable to or affecting their duties. (underling for emphasis)

It is clear that the General Rules were intended to relate to circumstances affecting the working relationship between an employee and the Carrier.

The evidence before the Board showed there was no widespread publication of Stalcup's offense. The Board has read the "show up sheet" and noted that the Carrier was not identified in the show up sheet. It is the opinion of this Board that the Carrier has not been subjected to criticism or loss of good will. Therefore, it is the order of this Board that the Carrier will expunge the discipline from the personnel file of E. R. Stalcup for the 10 day suspension starting May 20, 1972 and make E. R. Stalcup whole for all wages lost by this suspension.


Edmund W. Schedler Jr.
Third and Merits Member - Public
Law Board No. 1075


I Disagree
T. Minahan, Carrier Board
Member


I Agree
A. F. Zimmerman, Organization Board
Member