

PUBLIC LAW BOARD NO. 1844

AWARD NO. 43

CASE NO. 56.

PARTIES TO THE DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

"Claim of the system Committee of the Brotherhood that:

- (1) The dismissal of B&B Carpenter Stanley Chism, effective September 17, 1977 was without just and sufficient cause and wholly disproportionate to the alleged offense (System File D-11-17-232).
- (2) B&B Carpenter Stanley Chism be returned to service with all rights unimpaired because of the violation referred to within Part (1) of the claim.
- (3) That Stanley Chism now be compensated for all time lost and the discipline be stricken from his record."

OPINION OF BOARD:

Claimant was employed as a B&B Carpenter until his dismissal following hearing and investigation for violation of Rule G on September 17, 1977. Specifically, Claimant was found to be under the influence of alcohol while on the job.

Evidence adduced at the hearing shows that Claimant's foreman smelled alcohol and noticed Claimant's disoriented and confused behavior while giving him work instructions at the start of his shift. The foreman ordered Claimant to change out of his work clothes and go home. One hour later the

foreman encountered Claimant still in the Carpenter Shop at which time officers from Carrier's Police Department were called in to interview Claimant along with the foreman. The results of that interview are entered on an Alcohol Influence Report Form (AIRF) which was introduced at the hearing. Also, each of Carrier's officers and the foreman testified regarding symptoms exhibited by Claimant on that morning. Claimant also testified, admitting that he had consumed some alcohol the night before but denying that he had taken a drink that morning. The overwhelming evidence supports Carrier's conclusions regarding Claimant's state of intoxication. Claimant had been dismissed previously for violations of Rule G but reinstated on a leniency basis on April 11, 1977 for a six-month probationary period. In the circumstances we cannot find the instant termination for another proven violation of Rule G excessive or unreasonable. The claim must be denied. See Awards 3-2240 and 1-23025.

FINDINGS:

Public Law Board No. 1844, upon the whole record and all of the evidence, finds and holds as follows:

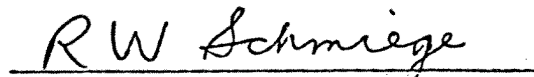
1. that the Carrier and Employee involved in this dispute are, respectively, Carrier and Employee within the meaning of the Railway Labor Act;
2. that the Board has jurisdiction over the dispute involved herein;
and
3. that the Agreement was not violated.

AWARD

Claim denied.


Dana E. Eischen, Chairman


H. G. Harper, Employee Member


R. W. Schmiede, Carrier Member

Dated: May 17, 1979