

PUBLIC LAW BOARD NO. 2366

CASE NO. 11

AWARD NO. 16

CASE NO. 1304

FILE: 11-120-UO-78

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

"(1) The dismissal of Machine Operator T. D. Atchison was without just and sufficient cause and excessive punishment (Case No. 1211 M of W).

(2) Machine Operator T. D. Atchison shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered."

OPINION OF BOARD

The Claimant was notified of a formal investigation concerning an asserted violation of Rule G. Subsequent to the investigation, the Employee was discharged from service.

The evidence demonstrated that the Senior Project Manager (Davis) became suspicious of the Employee's actions and upon closer investigation, he suspected that the Employee was under the influence of intoxicants because of lack of mobility and coordination, as well as glassy eyes and slurred speech. The Claimant was transported to a hospital where a blood sample was taken, which demonstrated that the Employee had 0.15 blood alcohol count.

Certain procedural matters have been raised by the Organization, however we are unable to find that the Employee was denied his rights.

The Employee has made certain references to medication that he was taking at the time, however nothing has been presented which would cause us to disturb the findings that

the Employee was in violation of Rule G on the day in question.

We have noted that the Employee has amassed a number of years of service with the Carrier and he has not been a disciplinary problem. That factor does not, of course, excuse a violation of Rule G, nor does it authorize us to ignore the established facts of record. We are inclined, however, to assure that the Employee receives all legitimate consideration.

We are aware that this Carrier maintains an Alcoholic Assistance Program for the benefit of its employees. But, we find nothing of record to suggest to us that this Employee is, or is not, an alcoholic or that he does, or does not, suffer from a "drinking problem." Thus, it would be inappropriate for us to direct that the Claimant be enrolled in a program of alcoholic rehabilitation. At the same time, we find nothing to preclude us from offering such an opportunity to the Employee if he desires to take advantage of it.

Accordingly, we direct that the Employee shall be conditionally reinstated, with seniority and other rights intact, but without reimbursement for compensation lost during the time he has been out of service, providing that he complies with certain conditions as follows: He shall join the Employee Assistance Program and execute usual and customary clinical reinstatement contract. He shall then be returned to service when the Director of the program considers that he has progressed to the point where such return is safe and reasonable. At that time, he shall be required to pass the usual physical examination necessary for a return to service.

Should the Employee not desire to comply with the stated conditions, then the termination shall be sustained.

FINDINGS

The Board, upon consideration of the entire record and all of the evidence finds:

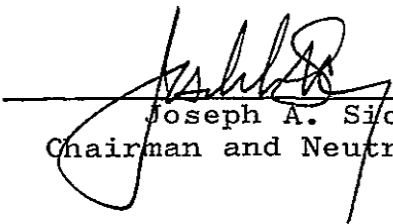
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

This Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due and proper notice of hearing thereon.

AWARD

Claim disposed of consistent with the above Opinion of Board.



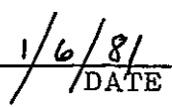
Joseph A. Sickles
Chairman and Neutral Member



Hugh G. Harper
Organization Member



J. S. Gibbins
Carrier Member



1/6/81
DATE