

PUBLIC LAW BOARD NO. 3460

Award No. 54
Case No. 54

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Burlington Northern Railway Company

STATEMENT
OF CLAIM

- " 1. The dismissal of machine-operator E.E.Meincke for alleged violation of rule G of the rules of the Maintenance of Way Department was excessive and unreasonable.
2. The claimant shall be reinstated with seniority and all other rights unimpaired, and he shall be compensated for all wage loss suffered."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

At the time of his dismissal, claimant had been assigned as a machine operator to a Maintenance of Way gang headquartered at Park Water, Washington. He had been employed by Carrier for over 24 years. At approximately 7:00 September 19, 1980, a foreman and supervisor went to the tool house where claimant was found to be asleep and believed to be under the influence of alcohol. When the two Carrier officers arrived at the tool

house, they found claimant standing up in the room and talking. They asked who he was talking to and he replied "that fellow laying on the floor." At the time there was no one else in the tool house or on the floor, just a pile of clothes and an empty wine bottle. In addition there was a half-full bottle of wine in the lunch room portion of the tool house. The claimant, upon being asked, indicated that both bottles were his, and when asked if he had been drinking, indicated that he had been. These facts were not denied by claimant at the investigation.

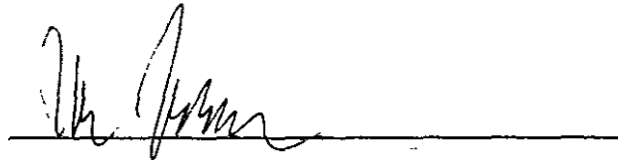
Petitioner's only defense in this situation was that the penalty assessed was excessive in view of the claimant's long service to Carrier. Furthermore, the Petitioner was apparently under the misapprehension that claimant had successfully completed a rehabilitation program.

Countless tribunals in this industry have held that violations of rule G are an extremely serious matter. This Board is included in that category. It is apparent that an employee violation of this rule whether by use of drugs or alcohol is a dangerous situation not only to the employee himself, but to fellow employees as well as the public. This simply cannot be tolerated. While this Board is keenly aware of the long service of this employee, it is apparent that the Carrier's judgement with respect to whether this employee can be rehabilitated and

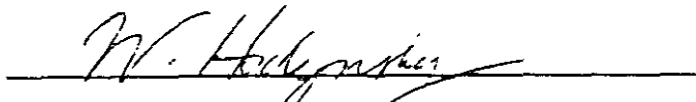
should be given another opportunity is a judgement which the Board cannot and should not challenge. The significance and seriousness of the infraction is such that the Carrier's decision with respect to the penalty to be assessed must be sustained in view of the obvious guilt of the claimant. In this case, that circumstance was clear and Carrier's judgement will not be tampered with.

AWARD

Claim denied.



I.M. Lieberman, Neutral-Chairman


W. Hodynsky, Carrier Member
F.H. Funk, Employee Member

St. Paul, Minnesota

December 12 , 1986