

PUBLIC LAW BOARD NO. 3765

Parties
to the
Dispute

CONSOLIDATED RAIL SYSTEM FEDERATION BROTHERHOOD OF
MAINTENANCE OF WAY EMPLOYES

vs.

GRAND TRUNK WESTERN RAILROAD COMPANY

Award No. 2
Case No. 2

STATEMENT OF CLAIM

- (a) The dismissal of Trackman T. Girgen was without just and sufficient cause, and was arbitrary and capricious, based on unsupported and improper charges.
- (b) Claimant Girgen shall be reinstated without loss of compensation, seniority, vacation rights, and all the benefits and privileges he enjoyed prior to his dismissal.

OPINION OF THE BOARD

Claimant T. Girgen was at the time of the incident involved in this case employed as a Trackman temporarily operating a machine on Tie Gang #1 out of Valparaiso, Indiana. He had two years of seniority. On June 8, 1979, Claimant was charged as follows:

You are hereby notified to attend a formal hearing to be held on Friday, June 15, 1979, at 1000 hours, in the Office of the Division Engineer's, 25 E. Dickman Road, Battle Creek, Michigan to determine your responsibility, if any, for alleged violation of the following rules:

Grand Trunk General Rule #2: Safety is of utmost importance. Working around railroad equipment and property can be dangerous if the safe course is not followed. Employees must follow all safety regulations and signs and exercise care to avoid injury to themselves and others.

Grand Trunk General Rule #3: Employees use or possession of intoxicants or narcotics while on duty or while on company property is prohibited. (b) Employees shall not report for, nor be on duty, at any time, under the influence of intoxicants or any other substance whatsoever (including those prescribed for them for medical reasons) that will in any way adversely affect their alertness, coordination, reaction, response or ability to work properly or safely.

Grand Trunk Safety Rule #3210: Unless engine or motor of power operated equipment, machinery or tool is shut off and engine or motor, and all parts of the equipment, machinery or tool are stopped, do not perform any of the following operations unless the design permits it to be done safely: (b) Applying or removing chain, belt or other attachment or device. (b) Touch chain, belt conveyor or other moving part.

You are also charged with allegedly violating General Rule #13 on and or June 7, 1979.

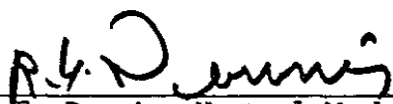
General Rule #13: Employees must not act in any way, while on duty or while representing themselves as a company employee, that would bring disrespect upon the company.

The above alleged violations allegedly caused you to injure yourself at approximately 0600 hours, CST on June 7, 1979, at Valparaiso, Indiana. You have the right to be accompanied at this hearing, without expense to the Carrier by a representative of your own choosing, and to present witnesses of your own choosing and to present witnesses in your own behalf. You will be given the opportunity to present testimony and to question others who may testify at the hearing.

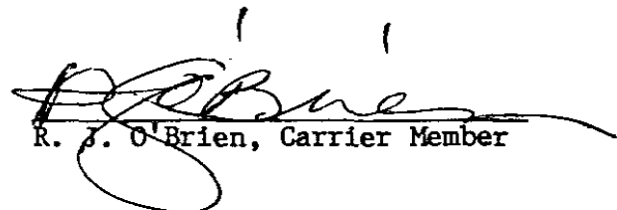
A hearing into the matter was held on June 22, 1979. As a result of that hearing Claimant was found guilty as charged and dismissed from Carrier's service. A record of that hearing has been made a part of the record before this Board. The Board has reviewed that record and must conclude that Claimant's dismissal was appropriate. Claimant reported to work under the influence of alcohol and was careless in the manner in which he handled machinery. Carrier cannot tolerate such actions in an employee. He violated two major rules in this instance. His continued employment could be a risk to his own well being and a liability to Carrier.

AWARD

The claim is denied.


R. E. Dennis, Neutral Member


W. E. Larue, Employee Member


R. J. O'Brien, Carrier Member


Date of Adoption