

PUBLIC LAW BOARD NO. 3765

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	* Consolidated Rail System Federation	*
Parties	* Brotherhood of Maintenance of Way	*
to the	* Employees	* Case No. 41
Dispute	*	*
	* vs.	*
	*	*
	* Grand Trunk Western Railroad Company	*
	*	*

STATEMENT OF CLAIM

That Mr. Ramierez (sic) be returned to service and time he has been held out of service to apply as discipline.

OPINION OF THE BOARD

At the time of the incident that gave rise to this claim, Claimant was employed as a Trackman at Flat Rock, Michigan. On May 11, 1989, he was heard shouting in a room adjacent to the Track Supervisor's office. The Track Supervisor investigated and recognized Claimant. He told him to stop. A short time later, Claimant engaged in another shouting scene. He was again told to stop. He resorted to obscenities. Eventually, the Supervisor had Claimant removed by Carrier Police. At this point, it was discovered

that Claimant smelled of alcohol. Claimant refused to submit to an alcohol test. As a result of the incident, Claimant was removed from Service and charged as follows:

You are hereby notified to attend a formal investigation to be held in the Office of the Supervisor of Track, Hamtramck Yard Office, Detroit, Michigan, at 0900 hours, Tuesday, May 16, 1989, to determine your responsibility, if any, for your alleged violation of Grand Trunk Operating G at approximately 0730 hours on May 11, 1989. Operating Rule G reads as Follows:

"G. Employes subject to call, reporting for, or on duty shall not at any time, use or be under the influence of narcotics, intoxicants, or any 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."

Also, to determine your alleged responsibility for insubordination toward Supervisor of Track, J.E. Rossi, when at approximately 0740 hours on May 11, 1989, you addressed Mr. Rossi with profane language.

This is in regards to my letter of notice of investigation dated May 11, 1989.

The following should be added to the notice:

"The events noted took place at the Section Gang Headquarters at Milwaukee Junction."

A hearing into the matter was held on May 25, 1991. A transcript of that hearing has been made a part of the record

presented to this Board. A review of that record reveals that Claimant received a full and fair hearing and was guilty as charged. It is clear from the record that Claimant was in violation of Rule G on this occasion and that he engaged in inappropriate behavior. He used vile language and refused to heed his Supervisor's order to stop. This Board has reviewed numerous cases involving Rule G violations. On some occasions, we have reinstated employees who have demonstrated a desire to solve their drug or alcohol problems. We see no such indication in this case. The Board is compelled to uphold Carrier's action in this instance.

AWARD

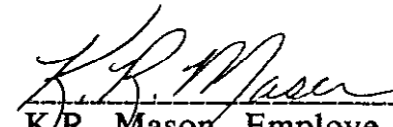
The claim is denied.



R.E. Dennis, Neutral Member



Jo A. DeRoche, Carrier Member



K.R. Mason, Employee Member

February 20, 1991