

PUBLIC LAW BOARD NO. 4950

NEW JERSEY TRANSIT RAIL OPERATIONS, INC. :
"Carrier" : Case No. 94
vs. :
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES : Award No. 87
"Organization" :

OPINION OF THE BOARD

By notice of hearing dated November 7, 1994, Carrier instructed Claimant to appear at a hearing in connection with the following:

On October 30, 1994, at approximately 1:45 a.m., on Shrewsbury Ave. in Tinton Falls, NJ, you operated Company Vehicle B-1376, without authorization and without a valid driver's license, in such a manner that caused you to be stopped by NJ State Police and cited for Motor Vehicle moving violations.

Therefore, in connection with this matter you are charged with violation of: NJ Transit's Engineering Department General Rules: B., D. para. 2 & 3, E. para. 1, L. para. 3 & 5 and General Safety Rules: 3335, 3341, 3343, 3348 and NJ Transit's Motor Vehicle Policy and NJ Transit's Drug and Alcohol Free Workplace Policy section IV, A. 3. "Prohibitions".

Following the hearing, Carrier found Claimant guilty as charged, with the exception of deleting the alleged violation of Rule 3348, and assessed him discipline of dismissal from all service. The Organization appealed, in part based upon Claimant's ten years of service with Carrier as well as his willingness now to confront his problems and seek proper

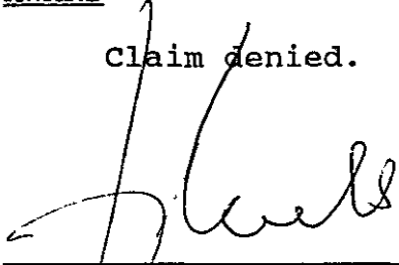
treatment.


The Board has determined that the claim must be denied.

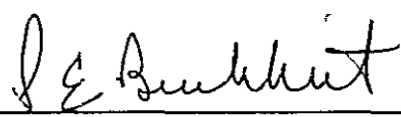
There is substantial evidence in the record to establish Claimant's guilt of the charges alleged. Moreover, those charges are extremely serious. Claimant appropriated a Carrier vehicle without permission and was found to be intoxicated while operating that vehicle. Claimant's illegal actions placed himself and the public in jeopardy and exposed Carrier to unnecessary liability. In these circumstances, it is not the prerogative of the Board to reinstate Claimant based upon his prior service nor based upon his commendable efforts to rehabilitate himself subsequent to this matter.

AWARD

Claim denied.



P. Charles
Carrier Member

G. Barbati
Organization Member

S. E. Buchheit
Neutral Member