

SPECIAL BOARD OF ADJUSTMENT NO. 280

Award No. 188
Case No. 275

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
St. Louis, Southwestern Railway Company

STATEMENT
OF CLAIM

"Claim of the System Committee that:

1. Carrier violated the effective agreement when Bridgeman G. D. Davis was unjustly dismissed on February 2, 1983.
2. Claimant Davis should now be reinstated to his former position as Bridgeman with seniority, vacation and all other rights accruing to him restored unimpaired, in addition to compensation for time lost commencing February 2, 1983, and to run concurrently until such time as he is restored to service."

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.

Claimant had been employed by Carrier in 1969 (he is currently approximately 31 years of age). The record indicates that claimant has a long history of ethanol abuse, going back to approximately 1977. This alcohol problem caused claimant's absence from work on numerous occasions and also intermittent hospitalization. The record indicates that in 1982 claimant was dismissed for his absenteeism and alcohol problem. However, he was reinstated, based on an agreement which was signed by both Mr. Davis, the Organization and Carrier. That agreement provided that as a condition of his reinstatement that he would:

1. avoid drinking alcoholic beverages or using other drugs,
2. meet with a counselor chosen by the Employee Assistance Counselor at least once a week, and
3. attend two or more Alcoholics Anonymous meetings per week.

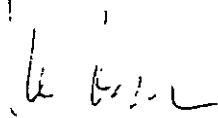
It was also understood in that agreement that he must remain in treatment for at least one year from the date of his return or until the Employee Assistance Counselor agreed that he could discontinue the program. That agreement also provided that any violation of the conditions specified would be considered insubordination resulting in his removal from service without recourse. In this circumstance, claimant was dismissed since it was found that he failed to keep a follow-up appointment on November 8, 1982, and on November 10, 1982, it was determined that he was in the hospital for reason of the treatment of alcoholism.

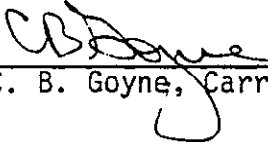
Petitioner argues that the supreme penalty of dismissal was excessive in this instance and grossly disproportionate to the severity of the offense with which claimant was charged. Petitioner urges that discipline must be corrective and not punitive in nature and that, under the circumstances herein, claimant's problem did not warrant discharge. Carrier contrarily states that it has gone the extra mile with respect to this employee and that it can no longer tolerate his obvious problem with alcohol. Carrier argues that the only basis for his dismissal in this instance was the violation of the 1982 agreement which was clear and unquestioned. Hence, it had no recourse but to dismiss claimant after many attempts to rehabilitate him.

From the record of this matter, it is apparent that Carrier has been patient in its attempt to rehabilitate this employee. The effort was not successful. While it is true that claimant was never accused of drinking on the job, his alcoholism problem was a pervasive one and could not be tolerated by his employer. There is no basis for disputing the conclusion reached by Carrier that it no longer wishes to tolerate an employee with the kind of problem exhibited in this instance. The age and length of service of this employee make it particularly difficult but there is no choice; Carrier's actions cannot be considered to have been arbitrary or discriminatory and the claim must be denied.

AWARD

Claim denied.


I.M. Lieberman, Neutral-Chairman


C. B. Goyne, Carrier Member


M. A. Christie, Employee Member

Houston, Texas

April 20, 1984