

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 924
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CHICAGO & NORTH WESTERN TRANSPORTATION COMPANY

Case No. 211

Award No. 183

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

1. The dismissal of Machine Operator R. R. Scarberry for his alleged violation of Rule G on November 20, 1991, at Modale, Iowa (Organization File 4LF-2475D; Carrier File 81-92-67).
2. Machine Operator R. R. Scarberry shall now be allowed the remedy provided in Rule 19(d).

FINDINGS:

Claimant, a machine operator, was dismissed from service of the Carrier when he tested positive for alcohol while on duty on November 20, 1991.

The Carrier had been called by representatives of the Holiday Inn where the Claimant and several other Carrier employees had been lodging the night before. The hotel representative reported that the Claimant and the other employees "were drunk and disorderly and caused quite a bit of commotion earlier that morning". The Carrier's representatives arrived on site to investigate the situation and noticed that the Claimant was acting as if he was under the influence of alcohol. In accordance with its policy, the Carrier representatives administered a breathalyzer test and then took the Claimant to a local hospital for a urinalysis. All test results came back positive and Claimant was charged with failure to

comply with Carrier Rule G. Subsequent to a formal hearing into the incident, the Claimant was dismissed from service.

The parties being unable to resolve the issue, this matter comes before this Board.

This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the guilty finding. The Carrier has presented sufficient proof in the way of test results and observations to convincingly demonstrate that the Claimant was guilty of a Rule G violation on the morning of November 20, 1991.

Once this Board has determined that there is sufficient evidence in the record to support the guilty findings, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

In the case at hand, the Claimant's personnel record reflects that he was dismissed for a Rule G violation in October of 1979 but subsequently was reinstated without pay. Given the previous Rule G discharge, this Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it terminated the Claimant this time. Therefore, the claim will be denied.

AWARD:

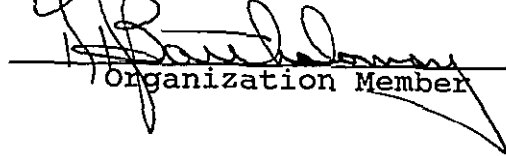
Claim denied.



PETER R. MEYERS
Neutral Member



Carrier Member



Organization Member

Dated: January 27, 1994