

Special Board of Adjustment No. 987

Parties to Dispute

Brotherhood of Maintenance of)	
Way Employees)	Case No. 2
)	
vs)	Award No. 2
)	
National Railway Passenger)	
Corporation)	

STATEMENT OF CLAIM

1. That the discipline of dismissal assessed Claimant Robert V. Lattanzio was excessive and unwarranted; and
2. That Claimant Lattanzio's record be expurged of the charge and that Claimant be reinstated to Carrier's service and be compensated for all lost wages.

FINDINGS

On February 22, 1985 the Claimant was ordered to attend an investigation to determine facts and place responsibility, if any, in connection with his alleged violation of the Carrier's Rules of Conduct H and I. These Rules read in pertinent part as follows:

Rule H ,

Employees must take every precaution to guard against loss and damage to the company property from any cause.

Rule I

Employees will not be retained in the service who are...dishonest...or who do not conduct themselves in such a manner that the company will not be subjected to criticism and loss of good will.

After the investigation was held the Claimant was advised on February 7, 1986 that he had been found guilty as charged and he was dismissed from service.

The Claimant was specifically charged with using a company bus on January 25, 1985 without authorization and with being involved in two separate accidents while driving this vehicle on that same date. The latter resulted in the Claimant being charged with ten different traffic violations by the Hingham, Massachusetts police department.

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A review of the record shows that the Claimant was involved in two different accidents while operating an AMTRAK bus on January 25, 1985 and that after being taken into custody by the police he proceeded to act in an unruly manner. The charges against the Claimant included driving while under the influence of alcohol, disorderly conduct, and speeding among others. On January 30, 1985 the Claimant pled guilty to the charges filed against him in Hingham District Court. He was given two years' probation and six months (suspended sentence) in a house of correction. The Claimant was also ordered to pay restitution and to enter a chemical dependency program.


There is sufficient evidence of probative value in the record to warrant the conclusion that the Claimant is guilty as charged. On merits the claim cannot be sustained. A review of the Claimant's past record, which may be used to reasonably assess the quantum of discipline, shows that in the some five years prior to the incident here under consideration the Claimant had been assessed discipline seven times for unauthorized absence from his assignment, for absenteeism and for fighting. Three of the disciplines included dismissals from service which were reduced to suspensions of from twenty-eight to one hundred and eighty days. Given this record, and consistent with prior arbitral precedent this Board has no alternative but to deny the claim.

AWARD

Claim denied. ,


Edward L. Suntrup, Neutral Member


C. E. Woodcock III, Carrier Member


J. J. Davison, Employee Member

Date: 11/3/87