

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 52
Docket No. 61

PARTIES: Brotherhood of Maintenance of Way Employees
TO :
DISPUTE: Chicago and North Western Transportation Company

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

- (1) The dismissal of Machine Operator L. E. Lawson for violation of Rule G was without just and sufficient cause and excessive punishment. (Organization File 2D-4454; Carrier File #1-84-165-D).
- (2) Claimant L. E. Lawson shall be allowed the remedy prescribed in Rule 19(d)."

FINDINGS:

This Board, upon the whole record and all the evidence, finds and holds that the employee and the Carrier involved, are respectively employee and Carrier within the meaning of the Railway Labor Act as amended, and that the Board has jurisdiction over the dispute herein.

Claimant was employed by the Carrier as a machine operator and on February 6, 1984, was ordered to report at Short Line Yard at Des Moines, Iowa, at 7:15 A.M. to operate a Jordan ditcher to clear snow. On February 6, 1984, he was directed to appear for formal investigation scheduled for February 9, 1984, on the charge:

"Your responsibility in connection with violation of Rule G of the General Regulations and Safety Rules effective June 1, 1967, while employed as a machine Operator at approximately 10:40 A.M. at Short Line Yard, Des Moines, Iowa, February 6, 1984."

The investigation was conducted as scheduled. Claimant was present throughout the investigation and was represented. A transcript of the investigation has been made a part of the record.

In the investigation the Trainmaster headquartered at Des Moines testified that about 10:15 the morning of February 6, 1984, claimant came to his office inquiring as to the whereabouts of the ditcher, at which time he detected a distinct odor of alcohol on claimant's breath, at which time he called the Assistant Roadmaster and the Special Agent at Des Moines.

The Assistant Roadmaster testified that when he confronted claimant at the location of the ditcher, he detected the odor of alcohol on claimant's breath; that a field sobriety test was given to

claimant; that claimant consented to a blood alcohol test and when the results of that test were received, claimant was removed from service.

The Special Agent corroborated the testimony of the Assistant Roadmaster; stated that he performed the field sobriety test; that he requested claimant to submit to a blood alcohol test, which claimant consented to.

The blood alcohol test showed a blood ratio of .124 at about 12:15 P.M. on February 6, 1984, which was in excess of what is considered intoxication under the Iowa law pertaining to the operation of motor vehicles, where the ratio is .100.


In the investigation claimant admitted having consumed alsochol the prior night from about 6:30 P.M. to 12:30 A.M., that he had about two hours sleep the previous night before reporting for duty about 7:00 A.M. Claimant was notified of his dismissal on February 15, 1984.

Carrier's Rule G and Rule G Addition were read into the investigation and will not be repeated here.

From the entire record we find that substantial evidence was presented at the investigation in support of the charge of violation of Rule G and that claimant was on duty under the influence of intoxicants on February 6, 1984. There is no proper basis for the Board to interfere with the discipline imposed, especially when we consider that claimant was taking up service for the purpose of operating on-track equipment.

A W A R D

Claim denied.


Carrier Member


Chairman, Neutral Member


Labor Member

Dated: Oct 3, 1985