

Special Board of Adjustment No. 956

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
New Jersey Transit Rail Operation, Inc.

STATEMENT
OF
CLAIM:

The suspension of Trackman R. D. Leidy and Welder M. McGuire is without just and sufficient cause and their records should be cleared of the charges and they be compensated for all wage loss suffered as a result of their suspension.

FINDINGS:

Claimants were suspended for 30 days for being on a Company bus that was stopped by North Arlington, N.J. police. The driver, Foreman Murphy, was arrested and charged with driving under the influence of alcohol. One open bottle of beer and three unopened bottles of beer were found on the truck at that time.

There is no persuasive evidence in the record that claimants were consuming or in possession of alcohol while in the bus. They had gone to a local bar after finishing their tour of duty and there had seen their foreman, Mr. Murphy. They were all in the bar for at least 1 1/2 hours, but claimants were not with Mr. Murphy during most of that period. He gave claimants a ride back to Paterson,

their home base, in the Company bus that he had been authorized to drive. Claimants fell asleep in the back of the bus and were in that position when the bus was stopped by the police.


Discipline must be supported by substantial evidence, as distinguished from mere conjecture or suspicion. The evidence in this record is not sufficient to establish that claimants acted in disregard of Carrier's interests. They were nothing more than passengers on the bus after working hours and there is no showing that they had reason to believe that their foreman was not in proper condition to operate the bus. We will not indulge in broad assumptions in order to establish claimants' guilt. Neither claimant was charged with any infraction by the police.


Apparently, on the basis of its experience, Carrier considered Mr. Murphy to be a sufficiently responsible employee to be entrusted with a Company bus on an evening when he as well as the other employees were picking up their pay checks.

This record provides no sound basis for depriving claimants of earnings.

AWARD: Claims sustained. To be effective within 30 days.

Adopted at Newark, N.J., January 28 1985.


Harold M. Weston, Chairman


Carrier Member


Employee Member