

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 144

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
NORTHEAST CORRIDOR

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

1. The dismissal of Mr. J. Trueblood for his alleged violation of National Railroad Passenger Corporation Rule G was arbitrary, capricious, and without just cause (System File NEC-BMWE-SD-2805D).
2. Claimant Trueblood's record shall be cleared of the charge leveled against him and he shall be compensated for all wage loss suffered.

FINDINGS:

Claimant James Trueblood was employed by the Carrier as a truck driver in New Jersey.

On October 19, 1990, the Carrier notified the Claimant to appear for a formal investigation in connection with the following charges:

Alleged violation of National Railroad Passenger Corporation Rules of Conduct, Rule G . . .

Specifically, in that you were observed by Supervisor Lance Pinkerton and Anthony Danella to be under the influence of alcohol at approximately 2:30 p.m. and subsequently tested positive at approximately 2:30 p.m. on October 4th, 1990.

After one postponement, the hearing took place on December 11, 1990. On December 21, 1990, the Carrier notified the Claimant that he had been found guilty of the charges and was being assessed discipline of dismissal in all capacities.

Thereafter, the Organization filed a claim on the Claimant's behalf, challenging his dismissal. The Carrier denied the claim.

The parties being unable to resolve the issues, this matter came 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 finding that the Claimant was guilty of a Rule G violation.

Claimant admitted drinking the night before, having partied late, and having gotten very little sleep before he came to work. Secondly, there is evidence that alcohol was smelled on the Claimant's breath while he was at work. Finally, the Claimant was asked to take two breathalyzer tests and both of them came back positive for alcohol.

Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, 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.

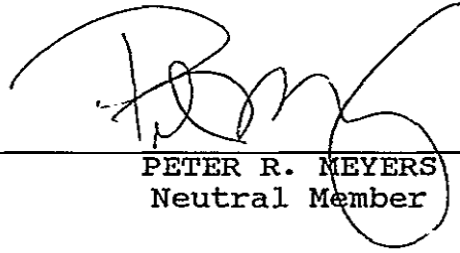
The record in this case reveals that the Claimant had been found guilty of a previous Rule G violation in 1987. Consequently, the Claimant is a two-time offender for Rule G. This Board has held on occasions in the past that once an employee is given a second chance and he still is unable to remain alcohol free, the Carrier has a sufficient basis upon which to terminate his employment.

This Carrier did not act unreasonably, arbitrarily or capricious when it terminated the Claimant. Therefore, the claim

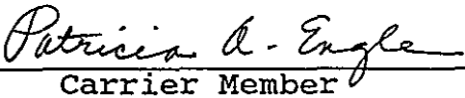
will be denied.

AWARD

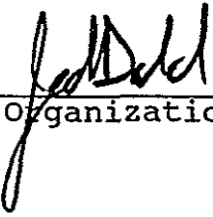
Claim denied.



PETER R. MEYERS
Neutral Member



Patricia A. Engle
Carrier Member



J. D. Dadd
Organization Member

Dated: 9-30-92