

A Can of White Claw

The Company transports students to schools under contracts with school districts. The Union represents the drivers and attendants. Emily Holmes worked for the Company as a bus driver for 17 years, until the ABC school district, for which she drove regularly, decertified her as a driver, and the Company discharged her, following the events of June 4, 2025. During the year prior to June 4, 2025, the Company issued Holmes two written warnings for tardiness and suspended her for one week for no call, no show. Holmes declined to grieve the discipline.

Holmes lived in a house with her niece and nephew, who were in their twenties. On the afternoon of June 4, as she left, Holmes took a can of White Claw Hard Seltzer, mango flavored from the refrigerator. White Claw is sold in cans that have both alcoholic and non-alcoholic content. Holmes did not drink alcoholic beverages and was unfamiliar with White Claw products. She did not notice the small circle on the front of the can which stated, "5% ALC/VOL."

Holmes knew there were cameras recording activity. Holmes entered the bus, placing the can of White Claw in the holder near the steering wheel, in full view of everyone. Moments later, she opened the can of White Claw and drank from it. During the time she was on the bus, Holmes drank its contents, and during this time, a high school student took a photograph with his cell phone of the can of White Claw. As soon as the student arrived home, he showed the photograph to his mother, who at once reported the matter to the School District. As Holmes drove on her second run, to pick up students at an ABC middle school, a supervisor called her and told her to stop driving the bus, to park the bus and wait. In about 10 minutes, the Company supervisor arrived and showed Holmes the can of White Claw saying it contained 5% alcohol. Holmes expressed total surprise to learn the can had alcohol, and she explained to the supervisor that her nephew bought the beverage, and that she took it from the refrigerator, not knowing it had alcohol. The Company assigned another driver to finish the run and sent Holmes to be tested for alcohol. She tested negative.

That afternoon, the ABC School District emailed the Company that Holmes "is decertified from driving for ABC School District, immediately." The next day, the Company discharged Holmes for "breaking Company rules and putting students at risk." The police investigated the incident, and decided Holmes had made an honest mistake, and preferred no charges. The Union asked the Company to reinstate Holmes, but the Company refused, and the Union filed a grievance. The Company denied the grievance.

During the hearing Holmes testified that she had been undergoing chemotherapy for lung cancer and her treatments diminished her sense of smell and taste and she did not detect alcohol in the White Claw beverage. The Union

advocate asks if her chemotherapy affected her in other ways and she said yes, it made her very nauseous at times. The following colloquy took place:

1. The Union advocate asks, "Can you explain why you did not grieve your prior discipline?" The Employer advocate objects, prior discipline is a matter of record, and no further inquiry should be allowed.

How do you rule? Green light: Allows Holmes to answer; Red light: No answer allowed.

2. The Union advocate asks, "Did you seek to keep the status of your health condition private prior to your explanations in this matter?" The Employer objects stating her personal preference is irrelevant.

How do you rule? Green light: Allows Holmes to answer; Red light: No answer allowed.

If allowed to answer 1. and 2. Holmes would testify I did not grieve because I wanted to keep my health situation private. Now everyone knows because I need my job.

3. Do you sustain Company's discharge of Holmes for just cause?
Green light: Discharge not for just cause; Red light: Discharge found for just cause.
4. If discharge is not for just cause, what is the remedy?
 - a. Reinstatement and full backpay. (Green light)
 - b. Reinstatement, no back pay (Red light)
 - c. Something else (blink Red light and Green light)