

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Chesapeake and Ohio Railway Company

1. That Freight Car Repairer Tentative, Robert A. Ruby was unjustly dismissed from service as result of investigation held in the office of General Plant Manager, Raceland Car Shop, Wednesday, May 23, 1979 in violation of Rule 37 of the Shop Crafts Agreement.
2. Accordingly, Ruby is entitled to be reinstated to service with seniority rights, vacation rights, and all other benefits that are a condition of employment unimpaired, with compensation for all lost time plus six percent interest; reimbursement for all losses sustained account loss of coverage under health and welfare and life insurance agreements during the time held out of service.

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was employed by the carrier as a Freight Car Repairer Tentative at the Raceland, Kentucky Car Shop. On May 5, 1979 he was found to have in his possession, while on duty and on the carrier's property a brown leather satchel containing 414 grams of marijuana. His possession of this substance was witnessed and the character of the material verified subsequently by the State Police Laboratory.

After a hearing and investigation the claimant was dismissed on a charge of "possession of marijuana on company property at Raceland Car Shop during his assigned tour of duty".

The Employees assert that the dismissal was arbitrary, capricious and inconsistent. Further they claim that the penalty is too severe based upon the claimant's unblemished work record and satisfactory performance of all duties without complaint.

The Board finds to the contrary. Simple possession of any amount of marijuana on the carrier's property while on duty is a serious offense for which dismissal is a legitimate penalty. There have been numerous Awards to this effect, Second Division Awards No. 8406, 6955 and Third Division Award 21925 are cited. In this case the Claimant was in possession of 414 grams, or one ounce less than a full pound of marijuana. This is a gross amount, a gross violation and the Board will not speculate on the reason for such a large amount to be in the claimant's possession, where and when it was discovered. Clearly he was guilty as charged and the carrier's action could in no way be characterized as "arbitrary, capricious and not consistent".

As to the severity of the penalty, Messrs. Gilbert and Sullivan would say that it "fit the crime".

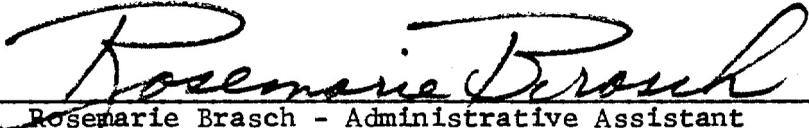
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 22nd day of July, 1982.