

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

Parties to Dispute: (System Federation No. 22, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(St. Louis-San Francisco Railway Company

Dispute: Claim of Employees:

1. Carrier violated the controlling Agreement when on February 12, 1973 they removed Carman Helper Barry M. Montgomery, Pensacola, Florida, from service and he was not allowed to return to work as a result of being charged with Rule G, Rules, Regulations, Safety Rules and Instructions Governing Mechanical Department Employees, effective March 1, 1957, the alleged use or possession of narcotics on January 27, 1973.
2. That the Carrier be ordered to compensate Carman Helper Montgomery for all time lost at his pro rata rate, restore all of his fringe benefits and seniority and all other rights unimpaired, until such time as he is allowed to return to service.

Findings:

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.

Upon a review of the record in the dispute we find that none of claimant's substantive rights under the Agreement were violated. The Carrier was warranted in imposing discipline, but, under the circumstances as they existed, permanent dismissal was excessive.

We will award that claimant be restored to the service with seniority and other rights unimpaired but without compensation for time lost while out of service.

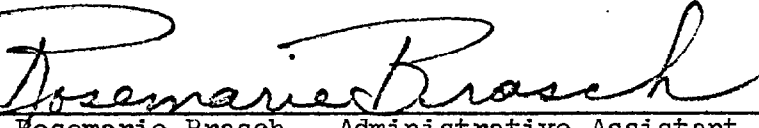
A W A R D

Claim sustained to extent indicated in Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 20th day of June, 1975.