

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

Parties to Dispute: { Sheet Metal Workers' International Association
{ Burlington Northern Railroad Company

Dispute: Claim of Employees:

1. That the provisions of the current agreement, Rule 35 (g) in particular, have been violated, account, Sheet Metal Worker Apprentice, R. L. Williams was given formal investigation, held on August 28, 1979, resulting in excessive discipline being rendered, in that he was dismissed from the service effective 3:00 P.M., September 18, 1979.
2. That because of such excessive discipline being rendered, the Carrier be required to re-instate and compensate Mr. R. L. Williams for all time lost, the record of his dismissal be removed from his personal record and that he be made whole for all fringe benefits during the time held out of 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.

As a result of an investigation held on August 28, 1979, Claimant, a Sheet Metal Worker, was notified by Carrier of his dismissal effective September 18, 1979, for possession of marijuana in violation of Rule G. He began employment with the Carrier on April 9, 1979.

The Organization claims the discipline is excessive and unreasonable and in violation of Rule 35 (g). In support of its position, the Organization points out Claimant had no previous warnings, reprimands or discipline in his record. It argues that the amount of marijuana was small, and when considered in light of the Claimant's acknowledgment of a drug problem and participation in the Carrier's Social Counseling Program should have been considered as mitigating circumstances.

A review of this matter discloses the Grievant admitted possession of marijuana on the night of August 18, 1979. Therefore, this Board finds the only issue to be the amount of discipline imposed. Possession of marijuana on duty, no matter what the quantity, is a very serious violation of the Carrier's rules. Claimant's

participation in a drug rehabilitation program subsequent to the violation is immaterial. There is no evidence to support a claim the Carrier acted in an arbitrary or capricious way in dismissing the Grievant. The Board finds the record clearly affirms the violation, and we do not intent to substitute our judgment for the Carrier's in the assessment of penalty.

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 9th day of February, 1983.