

The Second Division consisted of the regular members and in addition Referee Edward M. Hogan when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen & Oilers
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That, in violation of the current agreement, Laborer Rudolph Valentine was unjustly dismissed from service of the Carrier following trial held on May 7, 1980.
2. That, accordingly, the Carrier be ordered to make the aforementioned Rudolph Valentine whole by restoring him to Carrier's service, with seniority rights unimpaired, made whole for all vacation rights, holidays, sick leave benefits, and all other benefits that are a condition of employment unimpaired, and compensated for all lost time plus ten (10%) percent interest annually on all lost wages, also reimbursement for all losses sustained account of coverage under health and welfare and life insurance agreements during the time he has been 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.

With a year and one-half of service, Claimant was dismissed from the service of the Carrier following a formal investigation on the charges of violation of Safety Rule 4002 of the Carrier. Claimant had been observed smoking marijuana in Car 8238 on Track 114.

We find that the evidence as presented on the record is substantial, that the hearing was fair and impartial, that there was no abuse of discretion or discriminatory behavior on the part of the hearing officer. We also concur with the position of the Carrier that the level of discipline as imposed in this case was fully warranted given the severity of the proven charges. Smoking marijuana while on duty is a serious offense warranting the imposition of severe discipline. Dismissal, in this case, is warranted and justified. This Board has consistently held that the hearing officer, as the trier-of-fact, is in a far better position to determine the propriety of the evidence. This Board will not upset such findings

absent more serious questions as the fairness of the hearing. Conflict in testimony will not suffice for this Board to overturn the findings of the hearing officer.

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 4th day of May, 1983.