

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11188
Docket No. 11242
2-SP-EW-'87

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(Southern Pacific Transportation Company
(Western Lines)

Dispute: Claim of Employees:

1. Under the current agreement, Mechanical Department Electrician S. S. Alcorn was unjustly treated when he was dismissed from service on April 26, 1985, following investigation for alleged violation of portions of Rule "G" of the General Rules and Regulations of the Southern Pacific Transportation Company (Western Lines). Said alleged violation occurring on April 8, 1985.

2. That accordingly, the Southern Pacific Transportation Company be ordered to restore Electrician S. S. Alcorn to service with all rights unimpaired, including service and seniority, vacation, payment of hospital and medical insurance, group disability insurance, railroad retirement contributions, and loss of wages, including interest at the rate of 10 percent per annum.

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 employes 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 an Electrician at Carrier's West Oakland Diesel Department. On April 8, 1985, while on duty, Claimant was found to be in possession of marijuana, at which time he was withheld from service. Following a formal Hearing conducted on April 17, 1985, Claimant was dismissed from service on April 26, 1985, for alleged violation of Carrier's Rule "G" of General Rules and Regulations.

A copy of the Transcript of the formal Hearing conducted on April 17, 1985, has been made a part of the record. We find that the Hearing was conducted in a fair and impartial manner. In the Hearing substantial evidence was presented, including Claimant's statement, that Claimant was in possession of marijuana while on duty on April 8, 1985. Claimant testified that he was familiar with Carrier's Rule "G". The statement of Claimant as to how he came into possession of the marijuana is not persuasive.

The possession of, use of, or trafficking in drugs of any nature are considered serious offenses in the railroad industry. Claimant's dismissal was justified.

In the handling of the dispute on the property and in its Submission to this Board, the Organization has contended that as Claimant had gone through a rehabilitation program on the property, he should have been permitted to return to service. No rule has been cited requiring such action by the Carrier. However, the record does show that following Claimant's going through the rehabilitation program, he was given a physical examination by the Carrier, looking to his possible return to service, but it was again found that Claimant had a controlled substance in his system. There being no rule on the subject, this issue may only properly be left to the parties involved. (Second Division Award No. 8636, and Third Division Awards Nos. 25553 and 24531).

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Beaver - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1987.