

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers  
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

1. That the Union Pacific Railroad Company violated the controlling agreement, particularly Rule 37, when they unjustly withheld Electrician R. Y. Williams, from service beginning September 16, 1987, and following investigation held on September 30, 1987, dismissed him from service effective October 26, 1987, North Platte, Nebraska.

2. That accordingly, the Union Pacific Railroad Company be ordered to compensate Electrician Williams as follows:

- a. Compensate him for all time lost at the prime rate of interest.
- b. Return him to service with seniority rights unimpaired.
- c. Make him whole for all vacation rights.
- d. Make whole for all health, welfare and insurance benefits, including Railroad Retirement benefits and unemployment insurance.
- e. Make whole for pension benefits, including Railroad Retirement benefits and unemployment insurance.
- f. Make whole for any and all other benefits he would have earned during the time withheld from service.
- g. Any record of this disciplinary action be expunged from his personal record.

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 its North Platte Diesel facility at North Platte, Nebraska.

On September 16, 1987, the Carrier notified the Claimant of a formal Investigation to be held on the following charges:

". . . Violation of General Rules A (paragraph 2), B (paragraph 4), and L of Form 7908, Safety, Radio and General Rules for all Employees.

. . . you conducted yourself in a manner subjecting the Company to criticism in that you were arrested on March 30, 1987, at approximately 9:39 a.m. and subsequently convicted and then sentenced on September 14, 1987, for one count of distribution of marijuana and one count of distribution of valium."

The Hearing was held on September 30, 1987. On October 26, 1987, the Carrier notified the Claimant that he had been found guilty of all charges and was assessed discipline of dismissal, with all seniority rights terminated, effective immediately. Thereafter, the Organization filed a Claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of violating several Carrier Rules when he entered a guilty plea to distributing marijuana and valium and was sentenced to jail and probation. This Board has found on several occasions in the past that when an employee pleads guilty to a serious crime, the Carrier is justified in considering it to be conduct unbecoming an employee. (See Second Division Awards 9862, 7570, and Third Division Award 21825.)

Once this Board has determined that there is sufficient evidence in the record to support a guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.

In the case at hand, this Claimant admitted distributing marijuana and valium. This Board cannot find that the Carrier acted unreasonably, arbitrarily, or capriciously when it decided to terminate his employment for conduct unbecoming an employee. Therefore, the Claim will be denied.

Form 1  
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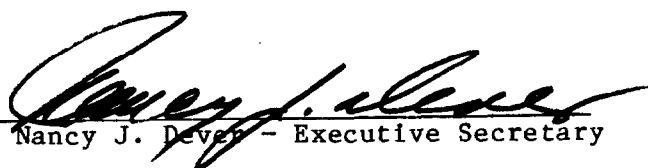
Award No. 11948  
Docket No. 11711  
90-2-88-2-207

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Deven - Executive Secretary

Dated at Chicago, Illinois, this 28th day of November 1990.