NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 22472
THIRD DIVISION Docket Number MS-22546

George S. Roukis, Referee

PARTIES TO DISPUTE: (David E. Dillon
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(Illinois Central Gulf Railroad

STATEMENT OF CLAIM: "This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex-parte submission on June 25, 1978 covering an unadjusted dispute between myself and the Illinois Central Gulf Railroad Company, wherein I was improperly dismissed from service of carrier.

I claim pay for time lost since December 2, 1977, re-instatement to service of carrier, and restoration of seniority."

OPINION OF BOARD: This Board has carefully reviewed the record and finds no mitigating rationale that would condone claimant's actions. The evidence solidly supports the conclusion that claimant's recidivist behavior is blatantly contrary to Carrier's safety rules and standards.

As a public body, created by the Railway Labor Act, this Board is vested with a vital public interest that requires strict objectivity when reviewing disciplinary appeals.

The investigation transcript clearly shows that approximately one (1) hour and forty five (45) minutes before he was to begin his assignment on June 1, 1977, claimant was arrested, jailed, and later found guilty of five (5) serious violations, including possession of marijuana. He even forfeited bond when on June 2, 1977, just two (2) hours after his release, he failed to appear in court.

But this is only part of his employment history. In the record, Claimant's disciplinary past is completely spelled out. It is characterized by a consistent pattern of wrongdoing, that despite progressive disciplinary measures, remains unresponsive to corrective action.

For example, on February 28, 1976, he was arrested for the possession of marijuana. He was again arrested, charged and arraigned on October 7, 1976 for the unlawful delivery, barter and sale of a controlled substance. In the instant case, one of the specifications was drug possession.

This Board has long held such offense to be dismissible. It poses an intolerable threat to railroad operations. It would be an unwise decision, ff this Board disturbed Carrier's determination, especially where as here, we are confronted with a habitual violator. It would be an affront to the public interest. For these compelling reasons we will deny the claim.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1979.