

NATIONAL RAILROAD ~~ADJUSTMENT~~ BOARD

THIRD DIVISION

Award Number 22530
Docket Number **MW-22716**

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of **Way Employees**
(
(St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the **Brotherhood**
that:

(1) The dismissal of **Trackman** X. R. Sarsycki was without just and sufficient cause and exceedingly disproportionate to the offense with which charged (System **File B-1748**)

(2) Claimant Sarsycki shall be reinstated to service and extended all other benefits and remedies prescribed in Rule 91 (b) **(6)."**

OPINION OF BOARD: Claimant entered Carrier's service as a **trackman** on February **14**, 1977. On October **21**, 1977. claimant and his wife pleaded guilty **in** Oklahoma County District Court to charges of unlawful possession of marijuana with intent to distribute and **unlawful** distribution of a controlled substance, and were given two-year deferred sentences on each count. The claimant had been arrested on April 12, **1977**, following the sale of approximately one pound of marijuana to a City Detective.

Claimant was suspended from service by the Carrier on November 7, **1977**, and instructed to appear for formal investigation on November 19, **1977**, on charges that he had pleaded guilty on October 21, **1977**, to unlawful possession of marijuana with intent to distribute and unlawful distribution of a **controlled** drug, **in** violation of Rule 1.76 and General Rule G of the rules for Maintenance of Way and Structures. The investigation was conducted as scheduled, with the claimant present. On **November 21, 1977**, he was notified of his dismissal from Carrier's service.

General **Rule G**, **referred** to in the notice of investigation, reads:

"**The** use or possession of intoxicants or narcotics is prohibited."

Rule 176 reads:

"**Employees** who **are** negligent or indifferent to duty, insubordinate, dishonest, immoral, quarrelsome, insolent or otherwise vicious, or **who** conduct themselves and handle their **personal** obligations in such a **way** that the railway will be subject to criticism and loss of good will, will not be retained **in** the service.

"**Employees** failing or refusing to pay their just debts or against whom **bills** are frequently presented to the railway for payment **will**, unless satisfactory reason is given, be dismissed from the service.

"Unauthorized assignment of wages by employees is prohibited and will be sufficient **cause** for dismissal."

Based on the entire record, including claimant's statement at the investigation on November 18, 1977, the **Board** finds no proper basis for interfering with the discipline imposed.

The claim will be denied.

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 **Employees** involved in this dispute are respectively Carrier and **Employees 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**.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **Third** Division

ATTEST: *A. W. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September 1979.