

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22692  
Docket Number CL-22711

Paul C. Carter, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station **Employees**  
(  
(The Atchison, Topeka and Santa Fe  
( Railway **Company**

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood  
(GL-8691) that:

(a) Carrier violated the rules of the current Clerks' Agreement at Topeka, Kansas, **commencing** March 6 and/or March 7, 1978, when it wrongfully discharged H. T. Albright, **R. D. Lehrman** and **L. E. Stephey** from service, and

(b) **H. T. Albright, R. D. Lehrman** and **L. E. Stephey** shall now be reinstated with all their seniority rights and other rights accruing thereto unimpaired, and shall be compensated **for** eight (8) hours' pay at pro rata rate of positions held March 6 **and/or** 7, 1978, for each work day **commencing** March 7 **and/or** March 8, 1978, **and continuing** until such time as they are reinstated.

(c) **Upon** expiration of sixty (60) days from date of submission, Carrier shall also pay ten per cent (10%) interest on the **amounts** claimed.

OPINION OF BOARD: The claimants were employed in Carrier's Materials Department at Topeka, Kansas.

On March 6, 1978, each of the claimants was notified that he was being held out of service pending formal investigation to be held on March 10, 1978.

**Also**, on March 6, 1978, **claimants** were notified **in** separate letters by Carrier's **Manager** of Materials - System, to report for **formal** investigation on Friday, **March 10, 1978, at 9:30 A.M.**, to develop the facts and place responsibility, if any, in connection with possible violation of **Rule 6** of the General Rules for the Guidance of Employees, Form 2626 Std., effective **May 1, 1975** and **Rule 7** of the Safety **Rules** for Santa Fe Employees, Form 2929 Std., effective

**April** 15, 1976, concerning the alleged possession and use of marijuana while **on** duty **on** the part of claimant **Stephey** **on** February 21, 1978, **claimant Lehrman** **on** February 21 and 22, 1978 and **claimant Albright** **on** February 21, 22, and 23, 1978.

The investigation was conducted as scheduled. **On** March 22, 1978, **each** of the **claimants** was notified of removal from service for violation of the rules cited in the notices of investigation.

**Rule** 6 of the General **Rules** for the Guidance of **Employees** reads:

"The use of alcoholic beverages, intoxicants or narcotics by employes subject to duty, or their possession or use while **on** duty, or **on** Company property is prohibited.

**Employees must** not report for duty under the influence of **any drug**, intoxicant, medication or **other** substance (including those prescribed by a doctor or dentist) that will in any way adversely affect their alertness, coordination, reaction, **response**, or safety. No such drug, intoxicant, medication or other substance **may** be **used** by employes **on** duty or while **on** Company property."

**Rule** 7 of the Safety Rules for Santa Fe **Employees** reads:

"The use of alcoholic beverages, intoxicants or narcotics by employes subject to duty, or their possession or use while **on** duty or **on** company property, is prohibited."

Copy of the transcript of the **formal** investigation conducted **on** March 10, 1978, **has** been **made** a part of the record.

Without detailing all the evidence in the investigation, suffice it to say that **there** was substantial evidence in support of the charge against each of the claimants. There is no proper basis for this Board to interfere with the discipline imposed by the Carrier.

**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;

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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.

A W A R D

Claim denied.

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

ATTEST:

*A.W. Paulose*  
Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1980.