

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 22941

Docket Number **MW-23044**

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way **Employes**
(St. **Louis** Southwestern Railway Company

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

(1) The Carrier violated the Maintenance of Way Agreement, especially but not limited to Rule 6 - Discipline and Grievances, when Extra Gang Laborer Bobby Earl Easter was unjustly dismissed on April 4, 1978, for alleged violation of company rules **M801, M810** and M811.

(2) Extra Gang Laborer Bobby Earl Easter shall be reinstated with pay for all time lost, vacation, seniority and all other rights unimpaired, Also, the charge shall be stricken from his record /System File **MW-78-9-CB/**."

OPINION OF BOARD: Bobby Earl Easter, claimant, was an Extra Gang laborer on Extra Gang 12. Claimant was billeted in a company-owned trailer parked on company property. He was arrested on company property for being in possession of and dispensing narcotics from his trailer. **Claimant** was charged with violation of Rules **M801, M810** and **M811** of the Rules and Regulations for Maintenance of Way and Structures.

He was arrested on March 30, 1978, and was retained in jail on March 31 and April 3, 1978, two days when he should have been at work. He was discharged from service as of April 4, 1978 for being absent without proper authority.

Claimant pleaded guilty to the narcotics charge.,-He was absent from work because he was retained in jail. Carrier has a right, if it chooses, to discharge claimant under such circumstances. Rules **M801, M810** and **M811** were violated by claimant. This Board sees no indication of arbitrary or capricious action on the part of the Carrier, nor does it question the fact that **the** penalty fits the crime in the instant case.

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.

A W A R D

Claim denied.

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

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 15th day of August 1980.