

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24113
Docket Number MW-23989

Josef P. **Sirefman**, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Consolidated Rail Corporation

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

(1) The discipline of Track Foreman **David Mannello** for allegedly 'Bringing discredit to the Penn Central Transportation **Company**' on June 19, 1974 was arbitrary, unwarranted and without just and sufficient cause.

(2) **The** claimant's personal record be cleared of the charge leveled against **him** and **reimbursement** be **made** for all wage loss suffered."

OPINION OF BOARD: Claimant David **Mannello**, a Track Foreman, was held out of service on June 21, 1974 and charged with:

"Bringing discredit to the Penn Central Transportation Company in that on June 19, 1974 you were arrested for and **charged with** felony drug possession by State and Federal narcotics agents."

After resolution of the criminal charges, a hearing was held on September 15, 1976 and on November 15, 1976 Claimant was dismissed.

A review of the record before this Board establishes that Claimant was arrested on the job at the place of business of a consignee of the Carrier on a drug charge and that he pleaded guilty to a reduced misdemeanor **charge** of criminal facilitation. Although his involvement was characterized as peripheral by the Trial Judge **who** accepted his guilty plea, it remains nonetheless involvement in a drug related episode. There is no need here to expand on the **extreme** seriousness of any connection with narcotics. Coupled with the arrest on the premises of a consignee there was substantial evidence to **sustain** the Carrier's decision to discipline Claimant. That the **Carrier** has extended reinstatement on a leniency basis cannot be part of the Board's consideration. Given the **seriousness** of the infraction the penalty **was reasonable**.

FINDINGS: **The** Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of January 1983.

