

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26038
Docket Number MS-26061

Philip Harris, Referee

PARTIES TO DISPUTE: (Michael R. Carroll
(
(Illinois Central Gulf Railroad

STATEMENT OF CLAIM:

"This is to service notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file ex parte submission covering an unadjusted dispute between the Illinois Central Gulf Railroad and myself involving the question of my dismissal from service.

I would like to appeal the ICG Railroad's decision of my dismissal from service."

OPINION OF BOARD: The Claimant was sentenced to jail on October 25, 1983, for the stabbing death of his wife. In December, 1983, the Carrier conducted an investigation in absentia and dismissed Claimant because Rule H states "... immoral acts or serious violations of the law are prohibited". Also, Rule I says "... Employees must not be ... immoral, quarrelsome or otherwise vicious"

The Claimant contends he was on furlough while in Court and being sentenced, and hence not holding a position with the Carrier at the time. Also, he did not plead guilty to the charge, but was so found by the Court.

The Board finds no reason to modify the Carrier's judgment. The Claim has a significant procedural defect in that it was not conferenced on the property as required by the Railway Labor Act. This alone warrants the dismissal of the case. Even if this were not so, the separation from service would be justified because of the violence that was committed. The Carrier rightfully must protect its image among users and the public. In special circumstances, including the instant case, the image extends to off-premises, off-hours behavior.

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:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of June 1986.