

The Third Division consisted of the regular members and in addition Referee Jack Warshaw when award was rendered.

(Joe T. Moore  
PARTIES TO DISPUTE: (  
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

"1. Carrier violated the agreement between the parties when it arbitrarily, capriciously, and in a discriminatory manner dismissed Clerk J. T. Moore from service following investigation held November 12, 1984.

2. Carrier shall, because of the aforementioned violation:

- a. Reinstate Clerk Moore to the service with seniority and all other rights unimpaired.
- b. Clerk Moore's record shall be cleared and all other benefits due him under the agreements shall be reinstated."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Claimant was dismissed November 29, 1984, following an investigation which was conducted in absentia on November 12, 1984, at which he was charged with violating that part of Rule G-1 concerning immorality and violation of the law, and the last paragraph of the General Notice having to do with public judgment of the Carrier based upon conduct of its employees.

On October 29, 1984, Claimant pleaded guilty to one count of "...possession of controlled substance" and was sentenced to "100 days and pay fine of \$410.25;" pleaded guilty to one count of "possession of more than 28 grams of marijuana" and was sentenced to "one year and pay fine of \$2,000.00." This

was conditioned that "upon serving 150 days and payment of \$612.25, the balance of the sentence shall be suspended, and you be placed on probation for 2 years."

In an October 29, 1984, letter addressed to the Terminal Manager  
Claimant stated:

"I will waive any rights that I might have to investigation and will accept any discipline that the company might wish to impose... For this reason I hope the company will see fit to act in a lenient manner."

It is well established that an admission or plea of guilty obviates the need for further evidence and supports the Findings. Second Division Award 2787; Third Division Award 8310.


As the Board is not empowered to grant leniency it has no alternative but to deny the claim. First Division Award 23852; Third Division Awards 25705, 25665, 22224.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 12th day of August 1988.