

The Third Division consisted of the regular members and in addition Referee Charlotte H. Gold when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(CSX Transportation, Inc. (former Louisville and Nashville Railroad Company)

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

Track Repairman R. L. Cathey shall be reinstated with seniority and all other rights and benefits unimpaired [System File 14-6-86/12-27(86-158) Q]."

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 waived right of appearance at hearing thereon.

On July 8, 1985, the Claimant entered a plea of guilty in General Sessions Court in Columbia, Tennessee, for possession of a controlled substance, driving on a revoked license, and possessing less than 1/2 ounce of marijuana. Carrier charged Claimant with a violation of Rule G-1 of The Operating Rules of the Seaboard System Railroad and the Safety Rules for the Engineering and Maintenance Department. Following an investigation held on September 10, 1985, Claimant was discharged from service effective October 7, 1985.

Claimant subsequently completed Carrier's Alcohol and Drug Rehabilitation Program and sought reinstatement to service. He was offered reinstatement on a leniency basis subject to conditions set forth in a Memorandum of Agreement, calling for discharge without recourse in the event he failed to comply with all rules and regulations. Claimant rejected the offer.

This Board has reviewed the entire record of the case and can find nothing wrong with the manner in which Carrier conducted itself. Claimant was offered reinstatement on a leniency basis under conditions similar to those present in offers to other employees in the past. Claimant elected to reject that offer. It is not within the authority of this Board to grant leniency and thus Carrier's final decision must stand.

Form 1
Page 2

Award No. 27742
Docket No. MW-27863
89-3-87-3-434

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of March 1989.