

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21826
Docket Number MW-21967

Don Hamilton, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Burlington Northern Inc.

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

(1) The dismissal of Sectionman G. E. Greene for alleged 'violation of Rules G, 700, 702 and 702B of the Rules of the Maintenance of Way Department for possession of narcotics on company property; subjecting the company to criticism as a result of your arrest; for failing to comply with instructions from proper authority October 23, 1975; and failing to protect your assignment October 24, 1975' was excessive and wholly disproportionate to the offense with which charged and in violation of the agreement (System File P-P-268C/MW-20 3/5/76 A).

(2) Sectionman G. E. Greene be reinstated with seniority and all other rights unimpaired and he be compensated for all wage loss suffered subsequent to December 10, 1975."

OPINION OF BOARD: The Claimant was dismissed for failure to protect his assignment on October 24, 1975. The Claimant admitted that he did not protect the assignment because, "I was in jail".

Without objection, evidence was introduced to show that the Claimant was arrested October 23, 1975, for "criminal activity in drugs". The Claimant further testified that the marijuana found in the bunkhouse was his and that he had used it a couple of days before his arrest.

Certain procedural questions were raised by the Claimant in his presentation to the Board, but none of these were raised on the property and no timely objection was made concerning procedural or substantive errors in regard to the hearing wherein the incriminating facts were established.

The Company has supported the allegations raised in the disciplinary proceeding and there is sufficient evidence to support the discipline of discharge.

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:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 6th day of January 1978.

