

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22158  
Docket Number CL-22191

Abraham Weiss, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station Employees  
(  
(The Toledo Terminal Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-8450) that:

(a) The Carrier violated the Agreement when, on April 23, 1976, it arbitrarily dismissed Mr. Joseph Shrewsbury from service with the Toledo Terminal Railroad Company, and

(b) That Mr. Joseph Shrewsbury be restored to service with full seniority unimpaired and compensated for all wages and wage equivalents lost for the period he is held out of service because of the Carrier's wrongful action.

OPINION OF BOARD: Claimant was dismissed from Carrier's service on April 23, 1976, following an investigation concerning changes contained in a notice dated April 13, 1976 as follows:

"You are charged with conduct unbecoming an employee, inasmuch as you were arrested, charged and found guilty of possession of hallucinogens."

At the investigation claimant was present throughout and ably represented. No exceptions were voiced at the investigation relative to the procedure.

Our review of the record discloses that there were no procedural defects therein; that claimant was vigorously represented throughout; and, that there is more than substantial evidence in the record to support a finding that claimant was culpable as charged.

We also find in the record that on at least two (2) occasions during the appeal processes on the property Carrier offered to reinstate claimant to service on a leniency basis without prejudice to his rights to progress any claim which he might have desired to pursue relative to this matter. For reasons known only to claimant, he rejected Carrier's offers.

Upon consideration of the entire record, we conclude that claimant erred in not accepting Carrier's offer. The charge here was a serious one. The evidence adduced at the investigation supported the charge. The discipline as assessed was not unreasonable or capricious under the circumstances which existed in this case. The claim must be denied.

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 Employee involved in this dispute are respectively Carrier and Employee 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 31st day of July 1978.