

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22530
Docket Number MW-22716

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(St. Louis-San Francisco Railway Company

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

(1) The dismissal of Trackman K. R. Sarsycki was without just
and sufficient cause and exceedingly disproportionate to the offense with
which charged (System File B-1748)

(2) Claimant Sarsycki shall be reinstated to service and
extended all other benefits and remedies prescribed in Rule 91 (b) (6)."

OPINION OF BOARD: Claimant entered Carrier's service as a trackman on
February 14, 1977. On October 21, 1977, claimant
and his wife pleaded guilty in Oklahoma County District Court to charges
of unlawful possession of marijuana with intent to distribute and unlawful
distribution of a controlled substance, and were given two-year deferred
sentences on each count. The claimant had been arrested on April 12,
1977, following the sale of approximately one pound of marijuana to a
City Detective.

Claimant was suspended from service by the Carrier on
November 7, 1977, and instructed to appear for formal investigation on
November 19, 1977, on charges that he had pleaded guilty on October 21,
1977, to unlawful possession of marijuana with intent to distribute and
unlawful distribution of a controlled drug, in violation of Rule 176 and
General Rule G of the rules for Maintenance of Way and Structures. The
investigation was conducted as scheduled, with the claimant present. On
November 21, 1977, he was notified of his dismissal from Carrier's
service.

General Rule G, referred to in the notice of investigation,
reads:

"The use or possession of intoxicants or
narcotics is prohibited."

Rule 176 reads:

"Employees who are negligent or indifferent to duty, insubordinate, dishonest, immoral, quarrelsome, insolent or otherwise vicious, or who conduct themselves and handle their personal obligations in such a way that the railway will be subject to criticism and loss of good will, will not be retained in the service.

"Employees failing or refusing to pay their just debts or against whom bills are frequently presented to the railway for payment will, unless satisfactory reason is given, be dismissed from the service.

"Unauthorized assignment of wages by employees is prohibited and will be sufficient cause for dismissal."

Based on the entire record, including claimant's statement at the investigation on November 18, 1977, the Board finds no proper basis for interfering with the discipline imposed.

The claim will 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 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: *A. W. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September 1979.