

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22692
Docket Number CL-22711

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(The Atchison, Topeka and Santa Fe
(Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8691) that:

(a) Carrier violated the rules of the current Clerks' Agreement at Topeka, Kansas, commencing March 6 and/or March 7, 1978, when it wrongfully discharged H. T. Albright, R. D. Lehrman and L. E. Stephey from service, and

(b) H. T. Albright, R. D. Lehrman and L. E. Stephey shall now be reinstated with all their seniority rights and other rights accruing thereto unimpaired, and shall be compensated for eight (8) hours' pay at pro rata rate of positions held March 6 and/or 7, 1978, for each work day commencing March 7 and/or March 8, 1978, and continuing until such time as they are reinstated.

(c) Upon expiration of sixty (60) days from date of submission, Carrier shall also pay ten per cent (10%) interest on the amounts claimed.

OPINION OF BOARD: The claimants were employed in Carrier's Materials Department at Topeka, Kansas.

On March 6, 1978, each of the claimants was notified that he was being held out of service pending formal investigation to be held on March 10, 1978.

Also, on March 6, 1978, claimants were notified in separate letters by Carrier's Manager of Materials - System, to report for formal investigation on Friday, March 10, 1978, at 9:30 A.M., to develop the facts and place responsibility, if any, in connection with possible violation of Rule 6 of the General Rules for the Guidance of Employees, Form 2626 Std., effective May 1, 1975 and Rule 7 of the Safety Rules for Santa Fe Employees, Form 2929 Std., effective

April 15, 1976, concerning the alleged possession and use of marijuana while on duty on the part of claimant Stephey on February 21, 1978, claimant Lehrman on February 21 and 22, 1978 and claimant Albright on February 21, 22, and 23, 1978.

The investigation was conducted as scheduled. On March 22, 1978, each of the claimants was notified of removal from service for violation of the rules cited in the notices of investigation.

Rule 6 of the General Rules for the Guidance of Employees reads:

"The use of alcoholic beverages, intoxicants or narcotics by employees subject to duty, or their possession or use while on duty, or on Company property is prohibited.

Employees must not report for duty under the influence of any drug, intoxicant, medication or other substance (including those prescribed by a doctor or dentist) that will in any way adversely affect their alertness, coordination, reaction, response, or safety. No such drug, intoxicant, medication or other substance may be used by employees on duty or while on Company property."

Rule 7 of the Safety Rules for Santa Fe Employees reads:

"The use of alcoholic beverages, intoxicants or narcotics by employees subject to duty, or their possession or use while on duty or on company property, is prohibited."

Copy of the transcript of the formal investigation conducted on March 10, 1978, has been made a part of the record.

Without detailing all the evidence in the investigation, suffice it to say that there was substantial evidence in support of the charge against each of the claimants. There is no proper basis for this Board to interfere with the discipline imposed by the Carrier.

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;

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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. Paulose
Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1980.