

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24113
Docket Number MW-23989

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
{ Consolidated Rail Corporation

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

(1) The discipline of Track Foreman David Mannello for allegedly 'Bringing discredit to the Penn Central Transportation Company' on June 19, 1974 was arbitrary, unwarranted and without just and sufficient cause.

(2) The claimant's personal record be cleared of the charge leveled against him and reimbursement be made for all wage loss suffered."

OPINION OF BOARD: Claimant David Mannello, a Track Foreman, was held out of service on June 21, 1974 and charged with:

"Bringing discredit to the Penn Central Transportation Company in that on June 19, 1974 you were arrested for and charged with felony drug possession by State and Federal narcotics agents."

After resolution of the criminal charges, a hearing was held on September 15, 1976 and on November 15, 1976 Claimant was dismissed.

A review of the record before this Board establishes that Claimant was arrested on the job at the place of business of a consignee of the Carrier on a drug charge and that he pleaded guilty to a reduced misdemeanor charge of criminal facilitation. Although his involvement was characterized as peripheral by the Trial Judge who accepted his guilty plea, it remains nonetheless involvement in a drug related episode. There is no need here to expand on the extreme seriousness of any connection with narcotics. Coupled with the arrest on the premises of a consignee there was substantial evidence to sustain the Carrier's decision to discipline Claimant. That the Carrier has extended reinstatement on a leniency basis cannot be part of the Board's consideration. Given the seriousness of the infraction the penalty was reasonable.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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.

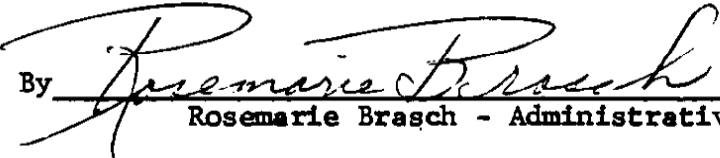
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of January 1983.

