

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24743
Docket Number MW-24927

Tedford E. Schoonover, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Louisville and Nashville Railroad Company
((former Chicago and Eastern Illinois Railroad Company)

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

(1) The dismissal of Track Laborer C. A. Keown III was without just and sufficient cause (Carrier's File D-107899).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Charge by the Carrier against Claimant was made on June 30, 1981 as follows:

"You are charged with violating the provisions contained in the fifth paragraph of General Rule 'G' of the rules and instructions of the Maintenance of Way Department in that you were sentenced on May 8, 1981 to the custody of Indiana Department of Corrections for a period of three years upon conviction of the charge of attempted armed battery.

Arrange to attend formal investigation to be held in General Office Building of L&N at Evansville, Indiana on Tuesday, July 7, 1981, at 9:00 AM, along with representation, if you desire, and any witness, who has knowledge of this case, that you may wish to be present.

Following investigation of this charge your personal record file will be reviewed."

After one postponement the hearing was held on July 10, 1981. Claimant together with his Organization representative attended the hearing and participated therein. Claimant stated the hearing was conducted in a fair and impartial manner.

Evidence adduced during the hearing verifies that Claimant was charged with armed attempted battery and plead not guilty during a court appearance in Evansville, Indiana on January 15, 1981. Bond was set and a trial date fixed for March 23, 1981. On that date Claimant appeared in court and changed his plea to guilty. A plea of guilty amounts to admission of the charge and is therefore justly subject to penalty of the law. Claimant was sentenced to the custody of the Indiana Department of Corrections for a period of three years to be served at the Halfway House. In addition he was ordered to enroll and complete an alcohol abuse program and make financial restitution to victims of his crime.

Rule "G" of the Rules and Regulations of the Maintenance of Way Department provides:

"Employees must maintain good moral character and avoid violations of the law, and failing to do so, will be subject to dismissal."

The evidence is clear and convincing as to Claimant's violation of Rule "G". The violation is based on a serious crime, a Class C felony, and merited severe disciplinary action. This offense, when considered in conjunction with Claimant's prior record which was far from commendable, provides full justification for Carrier dismissal action. We find no basis for finding that Carrier action was inappropriate, arbitrary or unreasonable.

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:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of March, 1984.

