

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26043
Docket Number MW-26204

Philip Harris, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Washington Terminal Company

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

(1) The dismissal of Trackman T. O. Jackson for alleged 'Possession of an unauthorized firearm, while on duty' was excessive and unreasonable.

(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: The Claimant was terminated from his employment with Amtrak on January 27, 1984, because he was carrying a loaded Smith and Wesson 38 caliber gun, along with three additional bullets in his pocket. Mr. Jackson said the gun was needed to protect himself while at work because there had been threats, robberies and shootings in the vicinity. Also, occasionally he carried large sums of personal funds. The Organization stated that he had thirty-five years in the railroad industry, all with a clear record, and that he was not aware of prohibitions in the Carrier's Rules concerning guns.

The Carrier cited its Rules, a copy of which was given to each employee. Concerning the Claimant's length of service, only seven months were with this employer. The balance of his thirty-five years were with other employers in the railroad industry. Such personnel records were not produced in this case, so there is no way of knowing how clean such records were.

The Board is of the opinion that the Carrier did not act in an arbitrary manner when addressing this serious violation, not only of its own regulations, but also those of the District of Columbia. Dismissal for the illegal possession of the loaded weapon is not excessive.

Had the Claimant been with the Carrier for all of his thirty-five years, and this with a clean record, then the Board would have considered the significance of a first offense after such a time lapse. But given the seven-month relationship here, the Carrier's act is defensible.

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 Employes involved in this dispute are respectively Carrier and Employes 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. Dexter - Executive Secretary

Dated at Chicago, Illinois, this 11th day of June 1986.