

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26278
Docket Number MW-26566

James R. Johnson, Referee

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

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

(1) The dismissal of Engineer Work Equipment G. E. Thompson for alleged violation of The Washington Terminal Company General Rule 'K' and Rule 'G' was without just and sufficient cause, on the basis of unproven charges and excessive.

(2) The claimant's record shall be cleared of the charges leveled against him, he shall be reinstated with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: Claimant was employed by the Carrier as Engineer, Work Equipment. On June 7, 1984, at approximately 7:15 A.M., Claimant was observed by Carrier's Police in the Passenger Station, proclaiming in a loud manner that he was the "Amtrak Messiah."

Carrier's Police instructed him to lower his voice and leave the premises, but Claimant went instead to Carrier's Police Office, where he approached the Captain's desk, leaned forward and yelled out "What it is"! He was thereupon restrained by several members of Carrier's Police, handcuffed, and removed to the locker room. When in the locker room, he indicated that he had taken drugs at a party the previous evening. When invited to submit to a urinalysis, Claimant first agreed, and then refused.

An Investigation was held on July 18, 1984, at which Carrier's Police Officers testified to the facts stated above. The Claimant admitted that he told the Officers he had taken drugs, but contended that "he lied," and really had not taken drugs. The Carrier chose to believe his earlier admission to be the truth, rather than his subsequent recantation. Claimant was discharged as a result of the Investigation.

The record is clear that the Claimant was behaving in an unusual manner, and there is no basis to believe that he lied to Carrier Police about having taken drugs. In fact, Claimant's testimony at the Investigation is incredible. However, even if we were to believe that he lied when he admitted taking drugs, sufficient evidence exists in the record to warrant that conclusion. The Board finds that the Claimant was guilty of the charges.

With respect to the measure of discipline assessed, we cannot dispute the Carrier's decision. The charge certainly was serious and deserving of discipline. The Claimant had been dismissed and reinstated on a leniency basis, twice within the previous ten years - once for a Rule G violation, and once for acting in a disorderly manner. In view of Claimant's record, it is clear that discharge was an appropriate penalty.

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. Dover - Executive Secretary

Dated at Chicago, Illinois, this 24th day of April 1987.