

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

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

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10119) that:

(a) Carrier violated the current Clerks' Agreement at Clovis, Texas, when on July 8, 1985, it dismissed C. D. Miller, Jr. from service, and

(b) Facts developed at the formal investigation held on July 8, 1985, failed to sustain Carrier's alleged charges and did not justify or warrant the harsh penalty imposed, and

(c) C. D. Miller, Jr. shall now be reinstated to service of the Carrier with all rights unimpaired and paid for all monetary loss sustained as a result of being discharged on July 8, 1985, until reinstated, his personal record cleared of all charges, and

(d) C. D. Miller, Jr. shall be paid an additional twelve per cent per annum until claim is paid."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Claimant was arrested on duty on March 19, 1985, and charged with possession of marijuana with intent to distribute. On June 7, 1985, he pleaded guilty to a charge of possession of marijuana over one ounce, but less than eight ounces, and received a one-year deferred suspension and a fine of \$25. On June 25, 1985, he was notified to attend a formal investigation into

his alleged violation of Rules 2 and 16 of the General Rules for the Guidance of Employees, 1978, relating to the bringing of discredit to Carrier and engaging in dishonest and immoral conduct. Claimant was subsequently found to be in violation of Rule 16 and was removed from service. Claimant's past record over a ten-year period includes a total of seventy-five demerits and a prior discharge in 1984 for a violation of Rule 6, with a subsequent reinstatement.

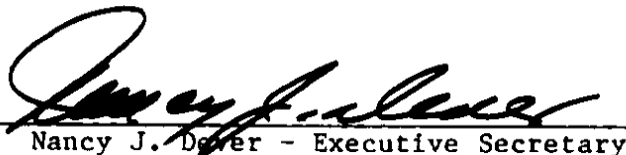
The Board has reviewed the entire record of this case, including the question of whether Claimant's investigation was held in a timely manner, and concludes that Carrier complied with pertinent procedural requirements of the parties' Agreement. At the same time, we find sufficient evidence in the record to support the charges against Claimant. Claimant was in fact guilty of unlawful conduct, having been found in possession of an illegal drug on Carrier property. In light of his past record, the discipline imposed in this instance was neither arbitrary nor capricious.

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 17th day of May 1988.