

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

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(Port Terminal Railroad Association

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

(1) The dismissal of Assistant Foreman D. R. Collins for alleged '... violation of ... Rule Numbers 84 and 97. ***' was without just and sufficient cause, arbitrary and on the basis of unproven charges.

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

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

Claimant, an Assistant Foreman, was dismissed from service on August 15, 1986, for his failure to protect his assignment since November 13, 1984, and for having been arrested on October 1, 1985, and July 21, 1986, for possession of cocaine. Claimant was found to have been in violation of Carrier's Rules 84 and 97.

Rule 97 provides that employees "must not absent themselves from their employment without proper authority" and that "continued failure by employees to protect their employment shall be sufficient cause for dismissal." Carrier concluded that the medical documentation provided by Claimant to explain his absence was insufficient and this Board must agree. On this basis alone, Claimant's dismissal was warranted. The Board need not address itself to the Organization's arguments on off-duty behavior.

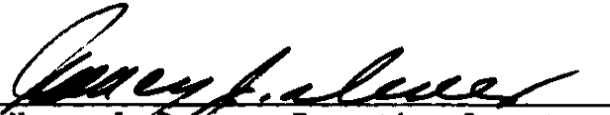
The Board finds that Claimant was afforded all procedural rights guaranteed by Agreement and that there was sufficient evidence adduced at his investigation to sustain the charge.

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 2nd day of March 1989.