

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

(CSX Transportation, Inc.
(Former Seaboard Coast Line Railroad Company)
PARTIES TO DISPUTE: (
(Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM:

"(1) The Agreement was violated when the Carrier dismissed J. L. Davis for conduct unbecoming an employee as a result of his conviction in Criminal Court of Rape for which he was sentenced to ten (10) years imprisonment. Carrier's file 12 (89-792), Organization's file NONE].

(2) As a consequence of the aforesaid violation, J. L. Davis shall be reinstated to the service with seniority and vacation rights unimpaired and with pay for all time lost."

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.

On June 29, 1989, the Claimant was notified of an Investigation on a charge of conduct unbecoming an employee in that he was arrested, charged and found guilty of the crime of rape in the Criminal Court, Unicoi County, Erwin, Tennessee, on March 23, 1989.

Subsequent to the Investigation, the Claimant was found guilty of the charge and was dismissed from service effective August 11, 1989.

The Organization pointed out that the Claimant was an exceptional employee for 12 years and that the offense did not occur on Carrier's property. As such, the Organization argues that there is no showing of adverse criticism to the Carrier, loss of goodwill or damage to its reputation, and it cites Awards in that regard. There is also an assertion that the Claimant suffered from an illness.

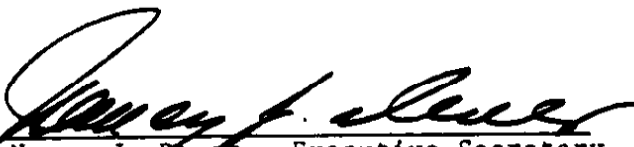
The record clearly shows that the Claimant pleaded guilty in Court and received a ten year sentence. It is not altogether clear from the record if, in fact, the Claimant served any portion of the sentence. In any event, the Claimant admitted to an offense of moral turpitude, involving a child. Under those circumstances, we feel that the Awards cited by the Organization are not pertinent here.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1991.