

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
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(Brownsville and Matamoros Bridge Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10495) that:

1. The Company violated the Rules Agreement effective June 1, 1972, as amended, when they arbitrarily dismissed Mr. J. J. Maza, Brownsville, Texas, from service. That the Company displaced a complete and utter abuse of discretion; denied him a fair and impartial investigation; rendered excessive and unwarranted discipline and failed to allow him fair lines of appeal.

2. The Company shall be required to reimburse J. J. Maza the amount equal to all wages lost; restore all Agreement rights he was deprived of during his dismissal, including but not limited to health and welfare coverage; and clear his personal record of any mention of this alleged disciplinary incident."

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.

Claimant, employed as a Bridge Toll Collector at Brownsville, Texas, was apprehended by U.S. Custom agents while on Carrier property with marijuana in his possession. Subsequently, he was convicted of conspiracy to import marijuana into the United States. He was sentenced to nine months in the custody of the Federal Bureau of Prisons with three years probation following his release.

Carrier charged Claimant with being in violation of its Rules in that he engaged in conduct unbecoming an employee and that he had in his possession marijuana, an illegal and controlled substance, while on Carrier's property. At the ensuing Investigation, adequate evidence was developed (mainly through the testimony of the apprehending Customs Agent) that Claimant did indeed possess a controlled substance while on Carrier property. Accordingly, Carrier established that he was guilty of the charge. Discipline was warranted. In the circumstances present, dismissal is not inappropriate. The discipline assessed will not be disturbed.

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 1992.