

PUBLIC LAW BOARD NO. 1582

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
TO:)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

That the Carrier's decision to remove Southern Division Trackman N. Brown, Jr. from service was unjust.

That the Carrier now reinstate Claimant Brown with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held September 30, 1983 continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable evidence that proved that the Claimant violated the rules enumerated in their decision, and even if Claimant violated the rules enumerated in the decision, permanent removal from service is extreme and harsh discipline under the circumstances.

FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was charged with possession of marijuana on Company property and for smoking marijuana about once a week on Company property for three years.

The claimant contends that Special Officer J. G. Beatty had advised him that if he made a statement and signed it, he would go easy on him; otherwise, he would lose his job. The claimant testified that for this reason, he signed the statement.

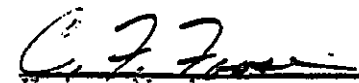
When the claimant signed the statement, he was advised of his rights which included: (1) the right to remain silent; (2) any statement could be used against him; (3) he had the right to have a lawyer present; (4) if he was unable to employ a lawyer, he had the right to have a lawyer appointed; (5) he had the right to terminate the interview at any time.

The signed statement of the claimant stated that he had started smoking marijuana when he got out of high school and it became a habit which carried over when he started to work for the Santa Fe Railroad Company. The claimant stated that he knew that smoking marijuana was against Santa Fe rules. He further stated that he had been smoking marijuana on Santa Fe property with other Santa Fe employees since 1979.

The claimant's signed statements which were introduced into evidence are sufficient for the Carrier to find that the claimant was guilty. This is a serious offense, and many System Boards of Adjustment have held that such constitutes just cause for dismissal.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member


Carrier Member

Dated January 5, 1984
at Chicago, Illinois