

PUBLIC LAW BOARD NO. 1760

Award No. 19

Docket No. MW-MOB-77-19

Parties Brotherhood of Maintenance of Way Employees
to and

Dispute Norfolk and Western Railway Company *Western Region*

Statement of Claim 1. Carrier violated the effective Agreement on July 15, 1977, by unfairly dismissing B. G. Miles from service on unproven charges.
2. Claimant B. G. Miles be reinstated with all rights unimpaired and paid for all time held out of service due to an improper discharge.

Findings The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by Agreement dated February 2, 1976, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant, a machine operator, was advised by the Division Engineer, under date of July 15, 1977, that he was dismissed for:

"Conduct unbecoming an employee of the Norfolk and Western Railway Company in that you were convicted in the Magistrate Court of Macon County, Missouri of possession of less than thirty-five (35) grams of marijuana (a misdemeanor), on or about June 21, 1977, you are hereby dismissed from the service of the Norfolk and Western Railway Company."

Claimant requested and was granted a hearing charged with:

"...Violating Company regulations governing the conduct of its employees in that you were convicted in the Magistrate Court of Macon County, Missouri, on or about June 21, 1977, for possession of less than thirty-five (35) grams of marijuana (a misdemeanor)...."

As a result of the hearing held on August 5, 1977 Claimant was advised under date of August 24, 1977 that the facts as determined by the hearing held in the office of the Division Engineer...

"...You were guilty of conduct unbecoming an employee of the Norfolk & Western Railway Company, therefore you are dismissed from the service of the Norfolk and Western Railway Company."

General Timetable Rule No. 41 was amended in Bulletin No. 135 by the Moberly Division Superintendent on March 23, 1977, to read:

"All Employees effective with the issuance of this bulletin, General Timetable Rule No. 41 is changed to read as follows:

'The conduct of any employee leading to conviction of any felony, or any misdemeanor involving the unlawful use, possession, transportation or distribution of narcotics or dangerous drugs, or of any misdemeanor involving turpitude is prohibited."

The Board finds that the Claimant was given a proper hearing pursuant to his discipline rule.

There were sufficient evidence adduced to support the conclusion as to Claimants culpability, including Claimants plea of guilty to the charge in Court, of possession of marijuana. Claimant admitted to the fact that he had plead guilty in the Macon County Magistrate Court. He also admitted that he had been fined \$50.00 plus \$16.50 court costs and that he had been sentenced therefor to six (6) months in jail and placed on parole.

In the circumstances the Board finds that the discipline assessed was not unreasonable.

Award Claim denied.

M. A. Christie
M. A. Christie, Employee Member

E. N. Jacobs
E. N. Jacobs, Carrier Member

Arthur T. Van Wart
Arthur T. Van Wart, Chairman
and Neutral Member

Issued at Salem, New Jersey, April 4, 1980.