

BEFORE PUBLIC LAW BOARD NO. 1837
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
AND
NORFOLK AND WESTERN RAILWAY COMPANY

Award No. 89

STATEMENT OF CLAIM: Claim of the Brotherhood that:

Claim on behalf of R. D. Hooser requesting that he be reinstated and paid for time lost, as a result of his dismissal from service following investigation held on January 22, 1993, in connection with conduct unbecoming an employee by being found guilty in court of trafficking in marijuana.

Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and this board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and subject matter.

This award is based on the facts and circumstances of this particular case and shall not serve as a precedent in any other case.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant violated the Carrier's rules by being found guilty of the drug-related charge of trafficking in marijuana. Sufficient evidence was adduced at the formal investigation to substantiate the Claimant's guilt.

Once this Board has determined that there is sufficient evidence in the record to

support the guilty finding, we next turn our attention to the type of discipline imposed.

This Board will not set aside a Carrier's imposition of discipline unless we find its actions to have been unreasonable, arbitrary, or capricious.

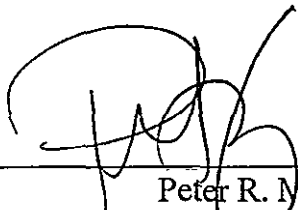
Numerous Boards have found on numerous occasions that even off-duty conduct involving the use of drugs can support the discipline or discharge of an employee. See Third Division Award No. 25263. Also, see Award 57 of Public Law Board 3530. In that Award, the Board stated:

In light of the Claimant's guilty plea, we find substantial evidence that the Claimant acted in a manner unbecoming an employee and was properly dismissed under the circumstances.

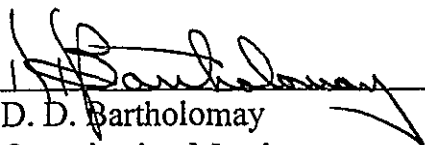
For all of the above reasons, the claim must be denied.

AWARD

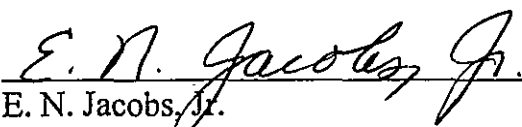
Claim denied.



Peter R. Meyers
Neutral Member



D. D. Bartholomay
Organization Member



E. N. Jacobs, Jr.
Carrier Member

DATED: 1-3-95

DATED: December 21, 1994