

Award No. 35

Case No. 72

Public Law Board No. 2363

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Louisville and Nashville Railroad Company

STATEMENT
OF
CLAIM:

(1) The dismissal of Tie Handler Operator F. C. Porter and Track Repairman J. L. Sapp for alleged violation of Rule G was without just and sufficient cause and wholly disproportionate to such a charge (System File 1-12(6) (79)).

(2) Tie Handler Operator F. C. Porter and Track Repairman J. L. Sapp shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered.

FINDINGS:

Having heard reports of marijuana use and experienced an unusual amount of vandalism in the area near Brandenburg, Kentucky, where camp cars of a large Timbering Gang were located, Carrier assigned Assistant Inspector of Special Services Miller to

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observe the cars on the night of December 27, 1978. Mr. Miller was joined in the stake out by Kentucky State Trooper McCubbin.

In the course of the night, a pickup truck parked in the vicinity of the camp cars. Upon confronting the occupants, Messrs. Miller and McCubbin found that claimant Porter was the owner and driver while claimant Sapp sat next to Mr. Porter in the truck and had a bag of marijuana in his hands. Claimants were arrested and subsequently convicted and fined \$25 each for marijuana possession.

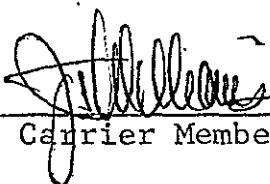
Claimant Porter, an employe with $4\frac{1}{4}$ years of service and claimant Sapp, with about 4 months service, were dismissed from Carrier's service. We find no sound basis for reversing that decision.

AWARD: Claim denied.

Adopted at Louisville, Kentucky, February 27, 1981.



Harold M. Weston, Chairman



Carrier Member



Employee Member