

PUBLIC LAW BOARD NO. 2366

DOCKET NO. 34

AWARD NO. 22

CASE NO. 1382 MW

FILE: K-177-T-80

PARTIES TO DISPUTE:

Illinois Central Railroad Company

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

- "(1) The dismissal of Trackman R. L. Marvel for alleged use of intoxicants or narcotics while on duty is without just and sufficient cause and excessive discipline. (Case No. 1382 M of W)
- (2) Trackman R. L. Marvel shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered."

OPINION OF BOARD

On May 5, 1980, the Claimant was notified to attend an investigation concerning an allegation that he had used narcotics or intoxicants while on duty, or subject to duty. Subsequent to the investigation, the Employee was terminated from service.

The record indicates that on the day in question, the Claimant exhibited certain difficulties in locomotion and his speech patterns were not normal. When questioned as to his well-being, the Claimant indicated that he had "smoked a joint", but denied that it had affected him. When the Foreman gave him an instruction, the Claimant performed a function in direct contradiction to the instruction.

Our review of the record indicates that the Claimant was under the influence of a foreign substance on the day in question, and there seems to be little question that he

was in violation of Rule G.

The Claimant indicated that he had experienced certain nerve disorders, and as a result, took a nerve pill prior to reporting for duty. However, he concedes that he did tell other individuals that he had smoked marijuana on the day in question. Moreover, he answered in the affirmative when asked if he was aware that "...taking any kind of nerve drugs or smoking marijuana is against the rules of this company?"

When the Claimant was asked why he had told the Foreman and the Supervisor that he had smoked marijuana, he stated "Because I felt that a nerve pill would be worse on me (sick) than smoking a joint."

There was certain discussion concerning the extent of the request for relief before this Board, and whether or not a plea for "leniency" is properly before us.

In any event, it appears that the Employee has previously been afforded the opportunity to enter a Company sponsored Alcohol and Drug Rehabilitation Program, but he failed to complete the program for reasons attributable solely to his own actions and activity.

Thus, without immediate regard to the question of the Board's jurisdiction and/or the question of offering an employee a rehabilitation program for the "second time", this Board is of the view that there is nothing in the record that reasonably compels us to take such an action.

FINDINGS

The Board, upon consideration of the entire record, and all of the evidence finds:

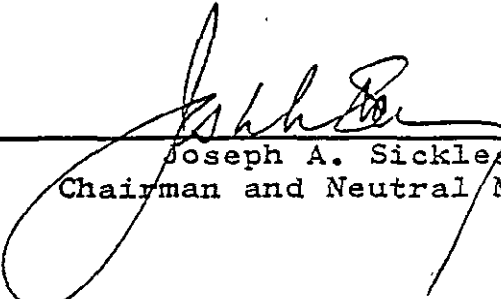
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

This Board has jurisdiction over the dispute involved herein.


The parties to said dispute were given due and proper notice of hearing thereon.

AWARD

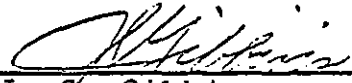
Claim denied.



Joseph A. Sickles
Chairman and Neutral Member



Hugh G. Harper
Organization Member



J. S. Gibbins
Carrier Member



DATE