

PUBLIC LAW BOARD NO. 2366

DOCKET NO. 42

AWARD NO. 30

CASE NO. 1418 MW

FILE: IL-165-T-80

PARTIES TO DISPUTE:

Illinois Central Gulf Railroad

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM

- "(1) The dismissal of R. D. Reynolds was without just and sufficient cause.
- (2) Claimant R. D. Reynolds shall be reinstated with seniority and all other rights unimpaired and shall be compensated for all wage loss suffered."

OPINION OF BOARD

On October 1, 1980, the Carrier notified the Claimant to report for an investigation concerning an allegation that he had used an possessed a controlled substance (marijuana) on two occasions while subject to duty.

Subsequent to the investigation, the Employee was dismissed from service.

The evidence of record demonstrates that on September 23, 1980, the Claimant and certain other employees were smoking marijuana, and according to the Supervisor, the Claimant conceded the use. The Claimant now contends that Rule G was not violated because he was off duty at the time, however that rule prohibits the use by employees subject to duty, and certainly that would include this particular case.

The Carrier justifies the severity of the penalty because of the hazards involved in the industry, and the Carrier notes that the Employee has worked for the Carrier for a very short period of time.

At the oral hearing, there was some discussion concerning the ultimate treatment afforded other employees, however the Carrier indicated that this Claimant showed no interest in any type of rehabilitation.

Under the circumstances, we find no basis for substituting our judgment for that of the Carrier, and we will deny the claim.

### FINDINGS

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

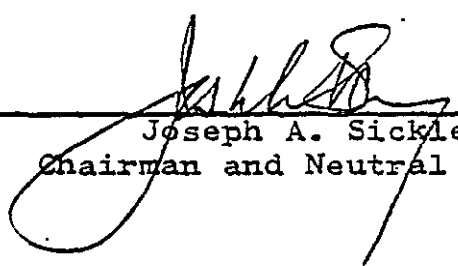
The parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended.

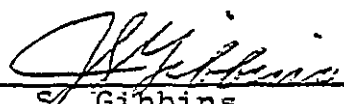
This Board has jurisdiction over the dispute involved herein.

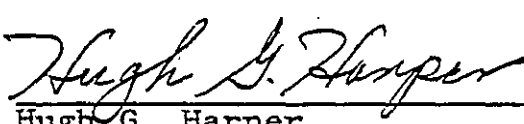
The parties to said dispute were given due and proper notice of hearing thereon.

### AWARD

Claim denied.

  
\_\_\_\_\_  
Joseph A. Sickles  
Chairman and Neutral Member

  
\_\_\_\_\_  
J. S. Gibbins  
Carrier Member

  
\_\_\_\_\_  
Hugh G. Harper  
Organization Member

2/23/82  
\_\_\_\_\_  
DATE