

PUBLIC LAW BOARD NUMBER 3445

Award Number: 24
Case Number: 24

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

And

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM:

Bridge Operator, John Brasseale, Route 3, Box 999, Somerville, Alabama, 35670, was dismissed for alleged conduct unbecoming an employee. Employees request he be restored to service with seniority and vacation rights unimpaired.

FINDINGS:

On September 28, 1983, Claimant entered a plea of guilty to the felony charge of possession of a controlled substance, and was convicted of that offense in the Circuit Court for Morgan County, Alabama. Claimant was later sentenced to twenty days in confinement and given probation.

As a result of this incident, Claimant was charged with conduct unbecoming a Carrier employee. A hearing was held in order to investigate the charge, and on the basis of the evidence adduced during the investigation, Carrier determined that Claimant was culpable as charged and that he should be

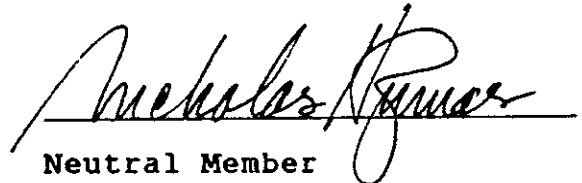
dismissed. The Organization filed a claim protesting Carrier's actions and requesting that Claimant be returned to service with seniority and other rights unimpaired, and with pay for all time lost. The claim was denied at all levels of appeal on the property, and the Organization then submitted the matter to this Board for resolution.

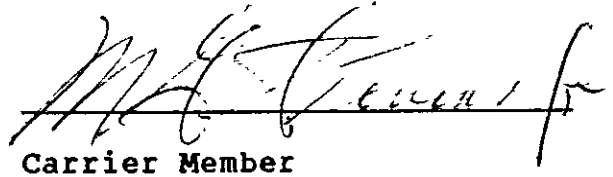
The issue to be decided in this dispute is whether Claimant was dismissed for just cause; and if not, what should the remedy be.

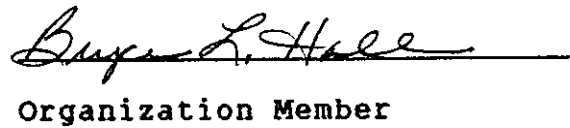
The record shows that Claimant, whose work record was clear, did indeed plead guilty to charges of possessing marijuana and amphetamines. Possession of such substances is clearly conduct unbecoming a Carrier employee. However, it is the opinion of this Board that the penalty of dismissal was overly harsh and excessive under all the circumstances. While the offense was a very serious one, Claimant's termination shall be reduced to a lengthy suspension. Upon his return to service, Claimant will be afforded a final opportunity to prove that he can be a productive member of Carrier's workforce.

AWARD:

Carrier shall reinstate Claimant to his former position immediately with full seniority, but with no pay for time lost.


Neutral Member


Carrier Member


Organization Member

Date: Dec. 17, 1984