

PUBLIC LAW BOARD NO. 3460

Award No. 4
Case No. 4

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employes
and
Burlington Northern Railroad Company

STATEMENT
OF CLAIM

"Claim of the System Committee of the Brotherhood that:

- (1) the dismissal of Assistant Foreman T. V. Wherry July 24, 1980, was without just and sufficient cause and wholly disproportionate to the alleged offense.
- (2) Assistant Foreman T. V. Wherry be reinstated with all seniority and other rights unimpaired and be compensated at his applicable rate for all time lost commencing June 18, 1980."

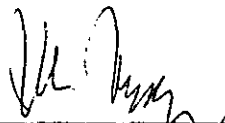
FINDINGS

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

Claimant was working as an Assistant Foreman on an extra gang on June 18, 1980. On that date, Carrier officers together with some law enforcement officers were conducting a check for marijuana when the group arrived at claimant's job site. Claimant was observed by three of the officers reaching into his pocket and dropping a small container on the ground. The container was retrieved and later found to have contained two marijuana cigarettes. Subsequently claimant was charged and dismissed for violation of Carrier's Rule G which prohibited the use or possession of alcoholic beverages or narcotics while on duty on Company property. The record of the investigation in this case indicates that there was substantial evidence to support Carrier's conclusion that claimant was in possession of the prohibited substance while on duty. He was seen dropping the material from his pocket at the time. There is no doubt but that he was in violation of Carrier's Rule G since marijuana is clearly a substance which is forbidden on Company property.

AWARD

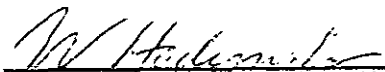
Claim denied.



I. M. Lieberman, Neutral-Chairman



F. H. Funk, Employee Member



W. Hodynsky, Carrier Member

St. Paul, Minnesota

September 30, 1984