



under the influence of any narcotic or alcohol at the time of the raid. The Organization notes that while it is clear that the pipes confiscated from claimant's locker had indeed been used for marijuana in the past, there was no marijuana in his possession on the day of the incident. Furthermore, he was not charged by the Sheriff's Office with possession of marijuana on the date of this incident, as was the other employee involved in Case No. 44. For this reason, the Organization insists that Carrier has failed in its burden of proving a violation of Rule G.

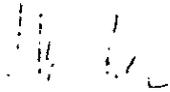
Carrier indicates that although claimant was found to be in possession of marijuana (a few grains), it was not of sufficient quantity to be considered a criminal offense. Carrier argues, however, that Rule G does not contain a quantitative factor with respect to the amount of the narcotic found in an employee's possession. Furthermore, there is no analogy between the Carrier's rules and criminal standards of conduct. Carrier points out that the Deputy Sheriff indicated that although claimant was not found to be in possession of a usable amount of marijuana, he was still found in possession of marijuana. Furthermore, claimant admitted that the two pipes and other materials had been used in the smoking of marijuana in the past by him. The pipe was scraped as well and a test run on the residue which proved, in fact, to be marijuana. Carrier argues that claimant was clearly in violation of Rule G by having in his possession while on Company property a narcotic. In view of claimant's short service and the nature of his infraction, Carrier felt that termination was the only appropriate remedy in this instance. Furthermore, Carrier notes that claimant refused to follow the program outlined for him by the Employee Assistance Counselor for possible reconsideration of Carrier's discipline. Carrier relies in part on Award No. 4 of Public Law Board No. 2909 involving a virtually identical problem. In that award, Carrier notes, the possession of drug paraphernalia containing even the most minute amount of drugs, should not be tolerated in the industry. In that award, of course, the Board found that the claimant was guilty of violation of Rule G.

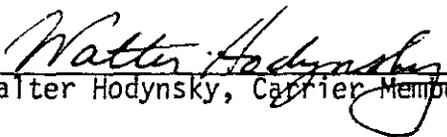
It is this Board's view that the principles enunciated in Award No. 4 of Public Law Board No. 2909 are valid and applicable to the situation involved in this dispute. The Board, in the award cited, indicated that the possession of drug paraphernalia discloses a complete lack of regard, not only for the carrier, but for carrier's equipment and claimant's co-workers. The board went on to find that a drug user or anyone possessing drugs should not be allowed any latitude whatever or the benefit of the doubt for purposes of evading discipline.

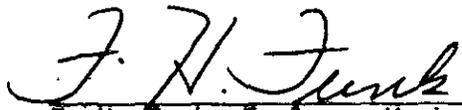
This Board finds, consistent with the thinking of the award cited, that the intent of Rule G is for the purpose of prohibiting drugs of any kind on Carrier property. That prohibition includes minute quantities of drugs and drug paraphernalia in which the drug residue may be found, as the Board views it. Thus, in this instance, Carrier was eminently justified in its conclusion and the claim must be denied.

AWARD

Claim denied.

  
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I. M. Lieberman, Neutral-Chairman

  
\_\_\_\_\_  
Walter Hodynsky, Carrier Member

  
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F. H. Funk, Employee Member

St. Paul, Minnesota  
July 31, 1986