

Award No. 78
Case No. 136

Public Law Board No. 3782

PARTIES TO DISPUTE:

Transport Workers Union

and

National Railroad Passenger Corporation

STATEMENT OF CLAIM:

Appeal from dismissal of James Jones, a carman,
on October 2, 1967.

FINDINGS:

On September 4, 1967, at about 3:10 p.m., according to the testimony of Foreman Surface and Supervisor Stocklin, they observed claimant seated in a chair at the pipe fitter's table in the Truck Shop with his feet on a chair, eyes closed and chair leaned back. They testified that he appeared to be asleep and did not move when Mr. Surface spoke to him, but awoke when Mr. Surface moved his leg. Surface testified that claimant appeared to be asleep in the chair about five minutes before Mr. Surface went to bring Mr. Stocklin to the scene.

Claimant was taken to the Nurse's Office where he was subjected to urinalysis. The test resulted in a positive confirmation for Cannabinoids (marijuana).

After a hearing was held upon due notice, claimant was dismissed for 1) violation of Rule G due to his "appearance" of use of a mood changing substance while on duty on the afternoon of September 4, 1987, and 2) sleeping on duty earlier that afternoon.

Claimant, who represented himself during the hearing, did not deny the charges brought against him. We are unimpressed, so far as his dismissal is concerned, with his contention that drug usage is frequently used in the work area. No contention or evidence that he has presented explains away his Rules violations and actions in this case. He has made no timely effort to avail himself of Employee Assistance Program services.

There is no sound basis on this record for setting aside or modifying the discipline of dismissal.

AWARD: Claim denied.

Adopted at Washington, DC, November 16, 1988.


Harold Weston, Chairman


Carrier Member

Employee Member