

Public Law Board No. 3794

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
CSX Transportation, Inc.

STATEMENT
OF
CLAIM:

Trackman H. L. Way's dismissal shall be set aside and he shall be reinstated with seniority and all other rights unimpaired and compensation for all time lost.

FINDINGS:

This is an unfortunate case. Claimant, an employee with about 14 years service, was tried and found guilty by the Superior Court of Camden County, Georgia, on February 7, 1985, of the felony offense of Habitual Violator. He has had nine Driving Under the Influence charges since 1972. The Court adjudged that the terms of probation stemming from an earlier Court conviction had been violated and on that basis revoked the probation provisions and required claimant to serve two years eight months in the custody of the Director of the Department of Offender Rehabilitation of the State of Georgia.

After a hearing had subsequently been held by Carrier, claimant was dismissed under Safety Rule G-1's provision that

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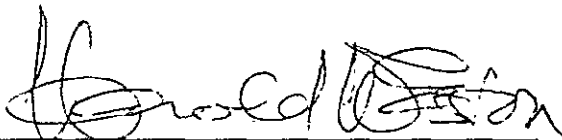
"violation of the law...will subject the offender to dismissal."

Claimant did not appear at the hearing since he was incarcerated at the time it was held. His incarceration under the Camden County Court order does not protect claimant from discipline by Carrier or provide a basis for holding that Carrier's discipline hearing does not comply with principles of due process.

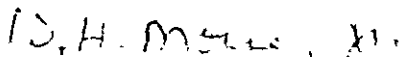
No ground is perceived for setting aside Carrier's decision to dismiss claimant.

AWARD: Claim denied.

Adopted at Jacksonville, Florida, March 17, 1987.



Harold M. Weston, Chairman



Carrier Member



Employee Member

