

PUBLIC LAW BOARD NO. 1582

PARTIES) THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: Claim in behalf of former trackman, John Rebel, Colorado Division, for reinstatement to his former position with all rights unimpaired and wages for all time lost beginning on November 21, 1975 and continuing forward until he is restored to service.

FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was dismissed from the service of the Carrier for an alleged violation of Rule 6, General Rules for the Guidance of Employees, Form 2626 Standard, 1975, which states that the use of alcoholic beverages, intoxicants or narcotics by employees subject to duty, or their possession or use while on duty or on company property, is prohibited.

The Board has examined the testimony and evidence of record, and it is clearly established that the claimant was in possession of marijuana while on company property. The claimant himself was asked the question:

"Mr. Rebel, did you carry marijuana in your pocket on arriving at the Springfield Station on November 7?"

The claimant responded to this question as follows:


"Not deliberately, no; inadvertently, yes."

The Organization contends that the Carrier made an illegal search. On the date in question the claimant hung his coat on the door of the safe at the Santa Fe Depot, Springfield, Colorado. The Carrier had received reports that the claimant used marijuana, and acting upon that information, the track supervisor made a search of the claimant's coat.


Under the circumstances the Board finds that the search could be made. It would be far preferable that the employee be called in and the search made in his presence. However, in this case the claimant admitted his guilt at the investigation. Therefore, it is not necessary to establish the claimant's guilt. The use and/or possession of marijuana by a railroad employee is a very serious offense. It is dangerous to fellow employees and to the public as well.

There is no basis or justification to overrule the decision of the Carrier.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member