

Public Law Board No. 2120

International Brotherhood of Electrical Workers
and
The Norfolk and Western Railway Co.

STATEMENT OF CLAIM: Claim on behalf of Electrician R. D. Entsminger that he was unjustly dismissed by the Carrier on September 4, 1979. Accordingly, he should be restored to service with all benefits, seniority and vacation unimpaired.

DISCUSSION: This Public Law Board finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

It should be noted that Mr. Entsminger appeared before this Board and was given complete freedom to testify on his own behalf.

There is no dispute with respect to the facts in this case. Claimant was convicted in the Circuit Court of the City of Roanoke, Virginia, on three counts:

1. Possession of marijuana
2. Possession of stolen property
3. Possession of controlled substance with intent to distribute

On August 28, 1979, Mr. Entsminger notified the company of the Court decisions made on the previous day. In accordance with contractual provisions, the Carrier held an investigation and hearing on August 30, 1979. The investigation was conducted in accordance with past

practice and all parties were freely allowed to participate. The Court documents and judgments were entered in the record. Claimant testified to their accuracy. Following the investigation Mr. Entsminger was notified by letter dated September 4, 1979, of the decision herein complained of.


In assessing penalty the Carrier relies upon a regulation governing the conduct of its employees which reads as follows:

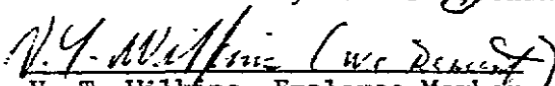
"The conduct of any employee leading to conviction of any felony, or of any misdemeanor involving unlawful use, possession, transportation or distribution of narcotics or dangerous drugs, or any misdemeanor involving moral turpitude is prohibited."

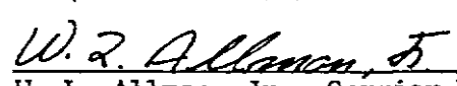
It is clear that claimant violated the rule. The crimes are of a serious nature and dismissal is well within the bounds of reason for such convictions. The Carrier's rights in this regard have been upheld by numerous Board decisions. The most recent were National Railway Adjustment Board, Second Division, awards numbered 8237 and 8205. These awards were on Norfolk and Western property and dealt with the same regulations.

Based on the foregoing and the entire record, this Board must deny the claim.

AWARD: Claim denied.


Kay McMurray, Chairman & Neutral Member


V. T. Wilkins, Employee Member


W. L. Allman, Jr., Carrier Member

Feb. 14 1980
Date