

Public Law Board No. 2363

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Seaboard System Railroad (former L&N Railroad)

STATEMENT
OF
CLAIM:

Claim that Track Repairman M. T. Fisher shall be reinstated with seniority and all other rights unimpaired and compensation for all wage loss suffered as result of his dismissal.

FINDINGS:

Claimant, a track repairman with 5 1/2 years service, was dismissed from Carrier's service on the ground that he had failed to comply with Rule G, Paragraph 5's requirement that

"Employees must maintain good moral character and avoid violations of the law, and failing to do so, will be subject to dismissal."

The record establishes that claimant had pleaded guilty on January 18, 1984, in Christian County Court, Kentucky, of cultivating marijuana for purpose of resale. As the result of plea bargaining, a one-year sentence was reduced to five years probation, payment of a \$1000 supervision fee and a \$1500 contribution to the Hopkinsville City Police Drug Enforcement Unit.

While the plea of guilty was part of the plea

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bargaining negotiations, that fact does not constitute a persuasive defense to the charge that he breached Carrier's Rule G, paragraph 5. He must bear responsibility for entering the plea and there is no indication that Carrier officials influenced him to do so or played any part in the court proceeding.

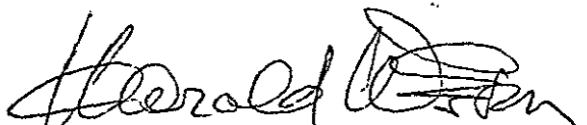

The cultivation of marijuana is an extremely serious offense, particularly in this industry. It reflects on the degree of judgment and responsibility that a railroad has every right to expect of an employee.

The record discloses no prejudicial procedural error and no basis is perceived for setting aside Carrier's decision to dismiss claimant.

AWARD:

Claim denied.

Adopted at Jacksonville, Florida, January 28, 1985.


Harold M. Weston, Chairman
Carrier Member
Employee Member