

PUBLIC LAW BOARD NO. 2774

Award No. 53

Case No. 62

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Atchison, Topeka and Santa Fe Railway Company

STATEMENT
OF CLAIM

"That the dismissal of Plains Division Track Man, J. N. Hernandez, was unjust.

"That Claimant Hernandez be reinstated to service with seniority, vacation, all benefit rights unimpaired, pay for wage loss, and/or otherwise made whole."

FINDINGS

Upon the whole record, after hearing the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant herein was charged with being in possession of marijuana while on Company property in violation of Rule 6 of the General Rules for the Guidance of Employees of the Carrier. He was removed from service for his alleged violation and, following an investigation held on May 22, 1981, Carrier found him guilty of the charges and dismissed him from service.

Rule 6 of the Carrier's General Rules for the Guidance of Employees states in pertinent part:

"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...."

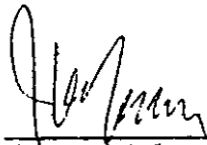
Claimant and members of his gang had been using a bunk car as part of their assignment during the week in question. The Foreman of the gang walked into the bunk car at the end of the work week and found some material which he believed to be marijuana on the table in the bunk car. Subsequently, Claimant admitted that it

was his marijuana but that he was not smoking it and no one had used it at that point in the car.

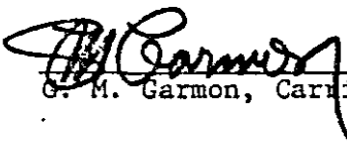
Based on claimant's testimony, much less the testimony of the Foreman, there is no doubt that claimant was guilty of the charges leveled by the Carrier. The seriousness of the offense requires no elaboration or emphasis. It's implications are well known. In view of the circumstances, Carrier was not incorrect in its determination of guilt or in the penalty which it assessed. Therefore, the Board must deny the claim.

AWARD

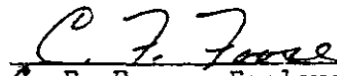
Claim denied.



I. M. Lieberman, Neutral-Chairman



G. M. Garmon, Carrier Member



E. F. Foote, Employee Member

Chicago, Illinois

December 7, 1983