

PUBLIC LAW BOARD - NO. 3514

Case 40

Award 40

PARTIES Consolidated Rail Brotherhood of Maintenance
to Corporation and of Way Employees
DISPUTE:

STATEMENT OF CLAIM: That Machine Operator H. F. Shipley was unjustly dismissed from the service, and that he be reinstated to the service with seniority and other rights unimpaired and compensated for all time lost while out of the service.

FINDINGS: The general issue here is whether, under the facts of record and application of principles generally applied by Public Law Boards in discipline cases, the Carrier had sufficient cause for dismissing the Claimant, or whether some penalty, short of dismissal, would be appropriate for the offense committed.

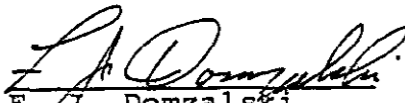
The Claimant had pleaded guilty to felony charges arising from his possession of cannabis (marijuana). He was sentenced to a term of one year on probation and paid a fine of \$500.00.

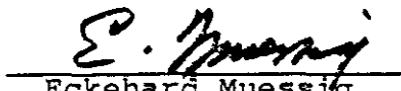
The Carrier, relying on testimony adduced at a hearing held on September 29, 1981, concluded that the Claimant was guilty of possessing a large quantity of marijuana. On the basis on record, it cannot be said that the Carrier lacked reasonable grounds for deciding that the Claimant's actions were so serious that they merited imposition of the dismissal penalty.


However, while we adhere to the long line of precedent awards that have upheld the Carrier's right to determine penalties after it finds guilt to the charge, in this case, we find that the discipline imposed was excessive. We note that no notoriety or discredit accrued to the Carrier following the arrest of the Claimant. Moreover, the Claimant was considered to be a very good employee by his Supervisor. Accordingly, on the foregoing basis, the Claimant's absent is sufficient discipline, and the claim is sustained to the extent that he will be restored to service with seniority and other rights unimpaired, but without back pay.

AWARD

Sustained as per the finding.


F. J. Domzalski
Carrier Member


Eckehard Muessig
Neutral Member


J. P. Cassese
Employee Member

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