

Public Law Board No. 3794

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employees  
and  
Seaboard System Railroad

STATEMENT  
OF  
CLAIM:

Claim that Trackman F. D. Wakefield be reinstated to service with seniority and all other rights unimpaired and be paid for all time lost.

FINDINGS:

Claimant was dismissed after he entered a plea of "Nolo Contendere" in a Florida court to a charge of possession of marijuana and was sentenced to one year probation, 100 hours community service and court costs.

As numerous awards have held, the fact that the misconduct occurred while claimant was off duty is not a valid defense to Carrier's charges. No persuasive ground is perceived for substituting our judgment for that of Carrier in this matter. At this time, possession of marijuana constitutes a sound basis for dismissal.

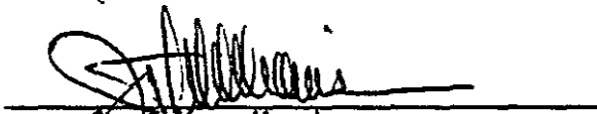
In reaching this decision, the Board has found no merit or evidence to support Carrier's conclusion that claimant was guilty of "dishonest" and "immoral" activities. The Board's findings rest on findings of Carrier as to illegality. Claimant's misconduct reflects on his judgment and responsibility, qualities that are relevant

in the employment relationship.

AWARD: Claim denied.

Adopted at Jacksonville, Florida, May 30, 1985.

  
Harold M. Weston, Chairman

  
Carrier Member

  
Employee Member