

Award No. 245

Docket No. 245  
Mopac File 247-6994

Parties Brotherhood of Maintenance of Way Employees  
to and

Dispute: Missouri Pacific Railroad Company

Statement  
of Claim:

1. Carrier violated the effective Agreement when Trackmen D. C. Mitchell and H. D. Lovelace and M. Bell were unjustly dismissed from service on May 10, 1985.

2. Claimants Mitchell, Lovelace and Bell shall now be paid all wages due them from the time they were removed from service until reinstated to service with seniority, vacation and pass rights unimpaired and all other rights and pass privileges due them.

Findings: The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor, as amended, that this Board is duly constituted by Agree- dated January 5, 1959, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimants were Trackmen in Carrier's Panel Yard Plant in North Little Rock, Arkansas.

The Carrier's Security and Special Service Department received a confidential tip that several employees in the Carrier's Panel Yard Plant assigned to work the second shift were reportedly using narcotics during their assigned meal

period in violation of company Rule G. Two of Carrier's Special Agents and a North Little Rock Police Department Special Detective began a surveillance operation at Carrier's Panel Yard Plant.

On April 25, 1985 a black Chevrolet Camaro with license plate number INX 909 was seen leaving the Panel Yard compound with three occupants at approximately 7:05 p.m. on April 25. Said vehicle was later observed parked at the intersection of Cedar and 17th. This was the location where Carrier's confidential informant had indicated that illicit drug transactions reportedly had taken place. While observing the vehicle it was noted that several unidentified subjects approached and congregated around the suspect vehicle.

Said vehicle was observed departing the intersection of Cedar and 17th at approximately 7:40 p.m. It was observed in route back to the Panel Yard compound with three occupants and arrived there at approximately 7:50 p.m. Whereupon, the city detective and the Special Agents approached the vehicle and identified themselves. The three occupants were identified as the Claimants herein, i.e. Bell, Lovelace, and Mitchell. At that time, the Claimants were found to be in possession of several cans of beer which were found to be cool and wet to the touch. They were interviewed and the odor of alcohol detected on their breath.

Claimants were notified to attend a formal investigation in connection with their possession of intoxicants

while on duty as Trackmen in violation of Rule G. As a result of the investigation which was finally held on May 8, 1985, Carrier concluded therefrom that the Claimants were guilty as charged. They were dismissed from service as discipline therefor.


During the line of appeal the Carrier reinstated the Claimants to service effective September 16, 1985, with the right to progress a claim for time lost. The dismissal was therefor reduced to four and one-half months suspension from service.

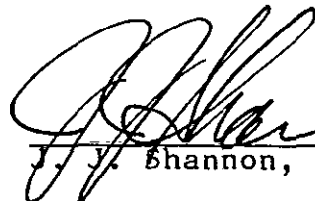
The Board finds the Claimants were accorded the due process to which entitled under their Discipline Rule.

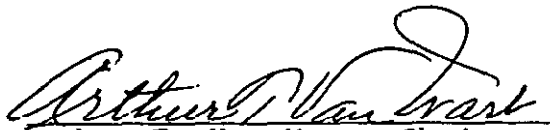
There were sufficient evidence to support the Carrier's conclusion as to the Claimants' culpability. That Carrier permitted the Claimants to return to work did not thereby condone their Rule G violation.

The amount of discipline imposed in light of the circumstances is deemed to be reasonable. This claim will be denied.

Award: Claim denied.

  
M. A. Christie, Employee Member

  
J. J. Shannon, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued August 23, 1986.