

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 924

Case No. 155

Award 139

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: Chicago & North Western Transportation Co.

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood:

1. The dismissal of E. A. Washington for alleged violation of Rule G was without just and sufficient cause and on the basis of an unproven charge (Organization File 9KB-4412 D; Carrier File 81-88-167).

2. Trackman E. A. Washington shall be reinstated with seniority and all other rights unimpaired, compensated for all wage loss suffered and made whole for any losses due to the Carrier's unjust dismissal.

FINDINGS:

Claimant E. A. Washington was employed by the Carrier as a carpenter.

On August 25, 1988, the Carrier notified the Claimant to appear for a formal investigation in connection with the following charge:

Your responsibility for violation of Rule G and Rule G (Addition) as contained in Part 1 of the General Regulations and Safety Rules (Revisions and Additions) effective January 1, 1985, while you were employed as Carpenter on the Right-of-Way Fence Crew on August 18, 1988.

The hearing was conducted on August 31, 1988; and on September 19, 1988, the Carrier notified the Claimant that he had been found guilty of the charge and was assessed discipline of dismissal. Thereafter, the Organization filed a claim on Claimant's behalf, challenging his dismissal.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of a Rule G violation because he had illegal substances in his blood stream while he was on the job on August 18, 1988.

Although the Organization contends that there was no probable cause to test the Claimant, the record reveals that the Claimant was assisting a boom truck operator when the boom truck derailed, causing significant damage. Under the Carrier's policy, any individual involved in an incident that causes significant damage while he or she is on the job must subject himself or herself to a drug and alcohol test.

Although the Claimant's breathalyzer examination was negative, the urine test results were positive for marijuana and cocaine metabolites. On the basis of the positive urinalysis, the Carrier terminated the Claimant's employment.

This Board has reviewed the record relating to the test results, and we find that there is sufficient evidence of the Claimant being guilty of Rule G contained in the record.

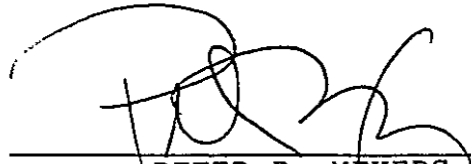
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find its action to have been unreasonable, arbitrary, or capricious.


In the case at hand, as in other cases before this Board, this Board cannot quarrel with a Carrier's decision to terminate a Claimant when he has been clearly found guilty of violating Rule G. It is a significant danger to have employees on the job who are under the influence of cocaine or marijuana. This Carrier certainly has a right, for its own safety and the safety of its other employees, to terminate Claimants who are found guilty of that rule violation.


This Board sees no reason to set aside the action taken by the Carrier. Therefore, the claim must be denied.

AWARD:

Claim denied.



PETER R. MEYERS
Neutral Member

Joan M. Lawrence
Carrier Member

H. B. Lawrence
Organization MemberDated: 12/12/90