

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 4
Docket No. 4

PARTIES: Brotherhood of Maintenance of Way Employees
TO :
DISPUTE: Chicago and North Western Transportation Company

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

- (1) The forty-five (45) day suspension assessed M. J. Hill for allegedly bringing discredit to the Company was without just and sufficient cause and on the basis of unproven charges. (Organization File 4D-3217; Carrier File D-11-3-374).
- (2) Claimant M. J. Hill shall have his record cleared and be compensated for all wage loss suffered."

FINDINGS:

The Board, upon the whole record and all the evidence, finds and holds that the employee and the Carrier involved, are respectively employee and Carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute herein.

Claimant was employed as a trackman on Carrier's Tie Gang 713. On July 26, 1982, a drug search was conducted at Denison, Iowa, involving the tie gangs working in that area. The search was made by Carrier's Special Agents and members of the Denison Police Department, with a specially trained Police dog.

A search made of claimant's personal vehicle, which was parked on a public street in the vicinity of the depot, revealed some marijuana and marijuana seeds. Claimant was arrested, and removed from Carrier's service. He was charged on July 28, 1982, with investigation scheduled for August 4, 1982, with:

"Your responsibility in connection with bringing discredit to the Company at Denison, Iowa on July 26, 1982."

The investigation was conducted as scheduled, and a copy of the transcript has been made a part of the record. A review of the transcript shows that the investigation was conducted in a fair and impartial manner.

Rule 7 of Carrier's General Regulations and Safety Rules reads:

"Employees are prohibited from being careless of the safety of themselves or others, disloyal, insubordinate, dishonest, immoral, quarrelsome or otherwise vicious or conducting themselves in such a manner that the railroad will be subjected to criticism and loss of good will; or not meeting their personal obligations."

There was substantial evidence adduced at the investigation that the claimant did have marijuana and marijuana seeds in his personal vehicle. It was also established in the investigation that the Denison, Iowa, newspaper reported claimant's arrest on the drug charge and identified him as an employe of the Chicago and North Western Transportation Company. We find, therefore, that claimant's actions on July 26, 1982, did bring discredit to the Carrier. Discipline was warranted and the forty-five (45) days suspension assessed claimant was not arbitrary, capricious or unreasonable. The fact that claimant was acquitted by civil authorities of the charges arising from his arrest has no bearing on Carrier's right to impose discipline. Many awards of the National Railroad Adjustment Board have adhered to the principle that a Carrier's right to discipline an employe is unrelated to the actions of criminal or civil courts.

A W A R D

Claim denied.

Paul A. Carter
Chairman, Neutral Member

John D. Crawford
Carrier Member

H. G. Harper
Labor Member

DATE: Nov. 28, 1983