

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31933
Docket No. SG-32160
97-3-94-3-573**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE:

(Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Transportation Company (CNW):

Claim on behalf of D.N. Chance for reinstatement to service with seniority unimpaired and with payment for all lost time and benefits and entry of discipline removed from his record, account Carrier violated the current Signalmen's Agreement, particularly Rule 51, when it failed to provide the Claimant with a fair and impartial investigation and imposed the harsh and excessive discipline of dismissal, in connection with an investigation conducted on January 5, 1994." Carrier's File No. 79-94-15. General Chairman's File No. S-AV-194. BRS File Case No. 9469-CNW.

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Prior to his dismissal, Claimant was assigned to the position of Signaller in Carrier's Des Moines Crew. He was also a participant in the Employee Assistance Program. On November 12, 1993, Claimant was required to submit a urine sample for a follow-up drug test, a condition of his return to service. His urine sample was confirmed positive for cocaine. By letter of November 23, 1993, Claimant was removed from Carrier's service and notified to report for a formal Investigation. The Hearing was scheduled for November 24, 1993. Claimant requested that his urine sample be retested by another laboratory for cocaine metabolites. That retesting also confirmed the presence of cocaine metabolites. After two postponements, the Hearing was held on January 5, 1994.

The Board reviewed this record thoroughly. Claimant was afforded a full and fair Investigation. The chain of custody of his samples submitted for testing was intact in both instances. Claimant had previously entered the EAP program as an alternative to dismissal when his urine tested positive for cocaine metabolites. He understood the conditions under which he would be returned to work after completion of the program. He did not meet those conditions. In effect, Claimant caused his own dismissal. Accordingly, we see no reason to overturn Carrier's assessment of discipline.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 4th day of March 1997.