

PUBLIC LAW BOARD NO. 1582

PARTIES) THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Southern Division Trackman R. G. Gilliam from service was unjust.
2. That the Carrier now reinstate Claimant Gilliam with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held on March 11, 1988, continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable evidence that proved the claimant violated the rules enumerated in their decision, and even if the claimant violated the rules enumerated in the decision, permanent removal from service is extreme and harsh discipline under the circumstances.

FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was notified to attend a formal investigation at Temple, Texas on March 11, 1988 concerning his alleged failure to follow the instructions contained in letters dated October 9, 1987 and December 29, 1987 issued by Dr. R. K. Khuri, System Medical Director, and his alleged failure to satisfactorily pass required medical examination.

The evidence establishes that the claimant was sent a letter dated February 23, 1987 which enclosed forms for a physical for employees off in excess of six months.

W. K. Hallows, Division Engineer, testified he received the results of a drug screening performed on the claimant's urine, and as a result thereof, the claimant was medically disqualified from service on a medical leave of absence until his return to duty was approved by the Medical Director. He testified that the claimant was notified of the results of the urine drug screen which indicated the presence of marijuana.

The claimant was notified that he would remain disqualified from service until he provided a supervised negative urine specimen. The claimant was later advised that if he failed to provide a negative urine specimen within 90 days of receipt of the letter

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such would result in the general manager and superintendent being informed about the results of the test, and his case would be handled as a disciplinary matter.

The Division Engineer further testified that he sent a letter by certified mail to the claimant dated December 29, 1987 advising him of the above and that his deadline for providing a clean urine specimen was January 12, 1988. This letter also advised the claimant that if he had a problem ridding himself of drugs, he was strongly urged to see the Employee Assistance Counselor in his area.

The Division Engineer further testified that the claimant failed to follow the instructions in Dr. Khuri's letters, and the information was relayed as a disciplinary action.

The Board has reviewed all the evidence and the exhibits which were submitted and finds there is no justification to overrule the decision of the Carrier.

AWARD: Claim denied.


Preston J. Moore, Chairman


Union Member

*Dated at Chicago, Illinois
June 10, 1988*


Carrier Member