

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. Carrier's decision to remove former Colorado Division Trackman Robert Ayala from service, effective November 5, 1987. was unjust.
2. Accordingly, Carrier should be required to reinstate claimant Ayala to service with his seniority rights unimpaired and compensate him for all wages lost from November 5, 1987.

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 medically disqualified following a medical examination which resulted in a positive finding for both marijuana and cocaine.

By letter the claimant was notified to provide a negative urine specimen within 90 days of receipt of the letter. The claimant was further advised that failure to provide a negative urine specimen within 90 days would result in the General Manager and Superintendent being informed regarding the results of his test, and his case would then be handled as a disciplinary matter.

The claimant was further advised that if he had a problem ridding himself of drugs, he was strongly urged to see the Employees' Assistance Counselor in the area. The claimant admitted receiving the letter containing all this information.

Then by letter dated September 23 the claimant was advised that the deadline for providing a clean urine specimen ended on October 9, 1987 and was again warned that failure to do so would result in disciplinary action. The claimant admitted that he received this letter.

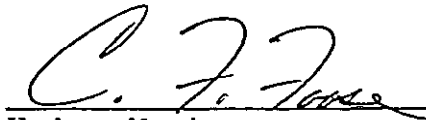
The evidence establishes that the specimen chain of custody and the identification of those drugs was established. The evidence further establishes that the claimant would have been reinstated had he provided a drug-free urine specimen at any time between July 7 and October 9, 1987.

The Board has examined all the evidence of record, as well as the exhibits submitted by the parties. The contentions raised by the Union have been carefully considered. The Board finds there is no justification to set the discipline aside.

AWARD: Claim denied.

*Dated at Chicago, Illinois
November 30, 1988*


Preston J. Moore, Chairman


Union Member


Carrier Member