

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. Claim on behalf of Western Region Trackman Manuel Q. ^CSamacho for all lost wages beginning December 14, 1992, as a result of being medically disqualified following a drug test in which he tested positive for an illegal substance. Claimant alleged that the collection process was mishandled by transferring the collected sample from a house vile to the shipping bottle.

2. Accordingly, Carrier should now be required to expunge the records pertaining to the aforementioned drug test and compensate the claimant for all wages lost as a result of being placed on medically disqualification until such time as he submitted a clean urine specimen.

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 a claim was filed in behalf of the claimant for all lost wages beginning December 14, 1992 as a result of being medically disqualified following a drug test in which the claimant tested positive for an illegal substance.

The claimant alleges the collection process was mishandled by transferring the collected sample from a house vile (vial) to the shipping bottle. The claimant alleged that a technician in Dr. Saurez' office transferred the claimant's collection sample from a house vile (vial) to a shipping bottle.

The claimant, in an undated letter addressed to the General Chairman, further alleged that the technician administering the drug test seemed "unsure of himself or the procedures of the test, and found himself having to ask a lot of questions of how to go about with the testing."

The Carrier alleges that the Medical Department investigated the allegations made by the claimant. The Carrier points up that an employee of the Medical Department interviewed the technician responsible for the claimant's drug test held on December 1, 1992 and pointed up that this laboratory had been utilized by the Carrier for several years without incident and that the technician

in charge of collecting samples is particularly knowledgeable in the collection procedure. On that basis the Carrier denied the claim.

The evidence indicates that the Medical Department employee investigating the incident determined that Mr. Serrano, who made the drug test on December 1, 1992, had been doing drug tests for the AT&SF since 1989. He also stated that Mr. Serrano denied transferring the collected sample from a house vial to the shipping bottle and knew this would void the chain of custody.

The claimant contends that there was a big difference in the manner in which the first urine test was made and the second test was made.

The Board has carefully considered all of the evidence presented, and under the circumstances herein, there is no justification to sustain the claim.

AWARD: Claim denied.

*Dated at Schaumburg, Illinois
September 14, 1993*

Preston J. Moore
Preston J. Moore, Chairman

C. J. Foss
Union Member

L. L. Pope
Carrier Member