

PUBLIC LAW BOARD NO. 3558

PARTIES) BROtherHOOD OF MAINTENANCE OF WAY EMPLOYES
TO)
DISPUTE) SOUTHERN PACIFIC TRANSPORTATION CO. (EASTERN LINES)

STATEMENT OF CLAIM:

"Claim on behalf of B&B Carpenter W. A. Auberry for reinstatement to his former position with all seniority, vacation rights, and any other rights accruing to him unimpaired, in addition to his personal record being cleared of the charge and all pay lost commencing May 8, 1985 and to run concurrently until Mr. Auberry is restored to service."
(MW-85-96)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

As the result of observations made by both Carrier supervisory officials and a foreman as to the disoriented, nervous and unstable manner in which Claimant was working and replacing bridge ties on May 8, 1985, that Claimant was asked to and did consent to a drug screening test. The record further reveals that Claimant tested positive with respect to the presence of four different drugs, including cannabinoids (marijuana), or a controlled substance.

In the circumstances of record, and notwithstanding the several arguments which the Organization offers in defense of Claimant, this Board finds no basis to hold that Claimant was other than guilty as charged of violation of Rule "G" or that the test was not conducted in a proper manner or that the results did not confirm the recent use of marijuana.

As concerns the discipline as administered, dismissal from service, this Board cannot say this was excessive or unreasonable in consideration of the fact that use of such substances not only endangers the safety of the Claimant in working around and under bridges, but likewise the safety of fellow employees and the safe and efficient operation of the railroad. However, in the light of Claimant having consented to the testing procedure, and in view of an apparently heretofore unblemished record, we would


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recommend Carrier give consideration to a leniency reinstatement subject to Claimant participating in and successfully completing a program of drug rehabilitation.

AWARD:

Claim denied.



Robert E. Peterson, Chairman
and Neutral Member



C. B. Goyne
Carrier Member



M. A. Christie
Organization Member

Branson, MO
May 19, 1986