

Award No. 115
Case No. 115

PUBLIC LAW BOARD NO. 4244

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.
TO THE) AND
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

STATEMENT OF CLAIM: Carrier's decision to remove former Central Region Trackman M. G. Morales from service, effective December 14, 1992, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Morales to service with his seniority rights unimpaired and compensate him for all wages lost from December 14, 1992.


FINDINGS: This Public Law Board No. 4244 (the "Board") finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended. Further, the Board has jurisdiction over the parties and the subject matter involved.

The record shows that on September 17, 1992, former Central Region Trackman M. G. Morales (the "Claimant") participated in a physical examination and drug screen in connection with his recall to service. The Claimant's drug screen tested positive for cocaine. The Claimant was notified by certified letter dated September 25, 1992, from Carrier Medical Director Raja K. Khuri, M.D., that his drug screen showed the presence of cocaine. He was further advised that in order to return to service he was required to obtain an evaluation and clearance from a Carrier Employee Assistance Program ("EAP") Counselor and provide a negative specimen. Last, he would be subject to discipline if he failed to comply with the instructions within 45 days.


The record further shows that the Claimant failed to comply with the instructions issued to him in Dr. Khuri's letter of September 25, 1992. In a letter dated December 14, 1992, the Claimant was informed by the Carrier that his seniority and employment were terminated for his violation of Rule 9.0 of the Carrier's Policy on Use of Alcohol and Drugs. The Claimant did not submit a negative urine specimen nor did he obtain clearance from an EAP Counselor to return to service within the specified time period.

Based on the record the Board finds that the Claimant's removal from service was appropriate. Rule 9.0 provides: "Any one or more of the following conditions will subject employees to dismissal for failure to obey instructions . . . (b) Failure to abide by the instructions Medical Department/Employee Assistance Program regarding treatment and/or follow up testing." Furthermore, contrary to the Organization's position, the Board also finds that there was no violation of any agreement between the parties in the handling of this matter.

AWARD: Claim denied.



Alan J. Fisher
Chairman and Neutral Member



C. F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: March 1, 1994
Schaumburg, Illinois