

Award No. 25

Case No. 26

PUBLIC LAW BOARD NO. 4244

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

STATEMENT OF CLAIM: Carrier's decision to remove former Northern Division Trackman R.E. Pitts from service, effective April 4, 1988, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Pitts with his seniority rights unimpaired and compensate him for all wages lost from April 4, 1988.

FINDINGS: This Public Law Board No. 4244 (the "Board") 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. Further, this Board has jurisdiction over the parties and the subject matter involved.

In this dispute former Northern Division Trackman R.E. Pitts (the "Claimant") was notified to attend a formal investigation on March 31, 1988 concerning his alleged failure to comply with instructions contained in letters dated December 1, 1987 and February 18, 1988 issued by Dr. R. K. Khuri, the Carrier's Medical Director, and his alleged failure to satisfactorily pass a required medical test. The Claimant's conduct involved possible violation of Rules 1, 2, 3, 11, 14 and 16 of the Carrier's General Rules for the Guidance of Employees. The investigation was postponed and held on April 4, 1988. Pursuant to the investigation the Claimant was found guilty of violating Rules 1, 2, 3, 14 and 16, and he was removed from service.

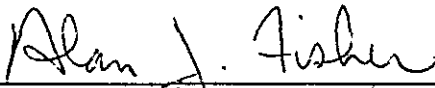
The evidence of record showed that on November 23, 1987, the Claimant was released to return to work from a medical leave of absence for high blood pressure and diabetes. Prior to his return to service, the Claimant was required to take a physical examination and provide a urine test, which he did on November 13, 1987.

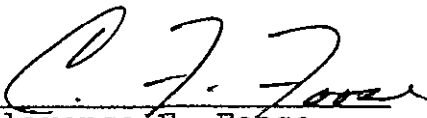
Assistant to the Superintendent C.E. Womack testified at the investigation that the Claimant's drug screen profile, the urine test, indicated the presence of marijuana. Pursuant to the Carrier's policy, the Claimant was informed of this result by letter dated December 1, 1987, from Dr. Khuri. He was also advised that he was medically disqualified from service and would remain disqualified until he provided a supervised negative urine specimen. Moreover, if he failed to provide a negative urine specimen within 90 days of receipt of the December 1 letter, the Carrier's general manager and superintendent would be informed of the test results, and his case would be handled as a disciplinary matter.

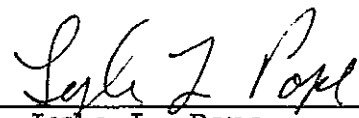
Womack further testified that the Claimant was notified by a letter dated February 18, 1988 from Dr. Khuri that the Claimant had until March 3, 1988 to provide a clean urine specimen. If he failed to do so, the matter would be handled as a disciplinary action. Evidence was then entered by the Carrier which showed that the Claimant failed to do as instructed.

The Board has reviewed all the evidence of record. The Board finds that the Carrier complied with all the terms of the collective bargaining agreement. The Board further finds that the Claimant failed to comply with the Carrier's instructions. Accordingly, there is no justification to set aside the Carrier's decision to remove the Claimant from service. The Board's decision is consistent with Award Nos. 415 and 426 of Public Law Board No. 1582.

AWARD: Claim denied.


Alan J. Fisher, Chairman
and Neutral Member


Clarence F. Foose
Organization Member


Lyle L. Pope
Carrier Member

Dated: Dec. 20 1988, Chicago, Illinois