

Award No. 58
Case No. 60

PUBLIC LAW BOARD NO. 4244

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

STATEMENT OF CLAIM: Carrier's decision to remove former Illinois Division Trackman P.C. Byrd from service, effective August 17, 1989, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Byrd to service with his seniority rights unimpaired and compensate him for all wages lost from August 17, 1989.

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 in this dispute former Illinois Division Trackman P.C. Byrd (the "Claimant") was removed from Carrier's service on September 29, 1987 after a formal investigation for violation of Rules 6 and 14 of the Carrier's General Rules for the Guidance of Employees and Rule G of Rules Maintenance of Way and Structures. The Claimant violated the cited rules when he was under the influence of a controlled substance while on duty on September 2, 1987. On May 5, 1988 the Claimant was reinstated to service on a leniency basis subject to six conditions. Items 3. and 4. provided:

3. You will maintain contact monthly with the EAP Counselor.
4. You will attend twelve (12) Alcoholics Anonymous meeting per month and submit valid documentation of such attendance to the Counselor and Division Engineer by the 10th of each month for two years.

4244

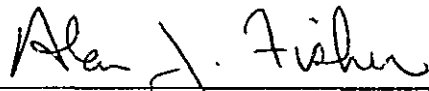
Award No. 58

Page No. 2

On August 17, 1989, the Carrier advised the Claimant by letter that he was not in compliance with Item No. 4 of the leniency reinstatement. The Carrier's records showed that the Claimant had not attended a sufficient number of meetings in January, February or March, 1989 and that no attendance cards had been received for April, May or June. Accordingly, the Claimant was advised that he had failed to comply with the conditions of his reinstatement and he was terminated from the Carrier's service.

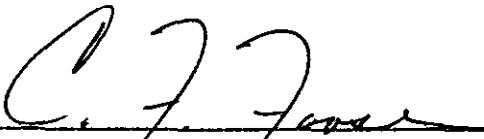
Based on the evidence of record the Board finds that the Claimant did not fulfill his obligation under Item No. 4 of the leniency reinstatement. Further, it is the Board's opinion that the Carrier, through its Employee Assistance Program and EAP Counselors, was available at all times to help the Claimant in his effort to comply with the conditions of the leniency reinstatement. Thus, under the circumstances of this case, and consistent with Board Award No. 33, the claim is denied.

AWARD: Claim denied.



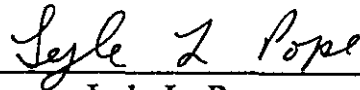
Alan D. Fisher

Chairman and Neutral Member



C. F. Foose

Organization Member



Lyle L. Pope

*Carrier Member

Dated:

June 8, 1990
Chicago, Illinois