

Award No. 69  
Case No. 71

**PUBLIC LAW BOARD NO. 4244**

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

**STATEMENT OF CLAIM:** Carrier's decision to remove former Albuquerque Division Welder Helper Alex Yazzie from service, effective July 31, 1990, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Yazzie to service with his seniority rights unimpaired and compensate him for all wages lost from July 31, 1990.

**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 former Albuquerque Division Welder Helper Alex Yazzie (the "Claimant") had been removed from Carrier service previously but reinstated on September 14, 1988 on a leniency basis without pay for time lost subject to five (5) conditions. One such condition, Item 2., required that the Claimant abide by the Carrier's rules regarding the use of alcoholic beverages, narcotics and controlled substances. Further, if the Claimant failed to comply with any of the five conditions of reinstatement, the Claimant would be removed immediately from service without a formal investigation. The Claimant agreed to the leniency reinstatement on September 21, 1988.

The evidence of records shows that on July 25, 1990 the Claimant reported to work under the influence of alcohol in violation of Rule G of the Carrier's

4244


Award No. 69


Page No. 2

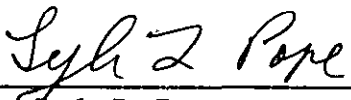
Safety and General Rules for All Employees. Such conduct was also in direct violation of Item 2. of the leniency reinstatement. Thus, the Carrier removed the Claimant from service.

The Board finds that the Carrier's handling of this matter was consistent with the agreed leniency reinstatement. Accordingly, there is no basis to set aside the Carrier's decision. The Board's decision in this regard is consistent with its previous awards.

AWARD: Claim denied.

  
\_\_\_\_\_  
Alan J. Fisher  
Chairman and Neutral Member

  
\_\_\_\_\_  
C. F. Foose  
Organization Member

  
\_\_\_\_\_  
Lyle L. Pope  
Carrier Member

Dated: November 27, 1990  
Chicago, Illinois