

PUBLIC LAW BOARD NO. 4338

PARTIES) UNION PACIFIC RAILROAD COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

1. The discipline (30 day suspension) assessed Laborer Greg Pino for alleged violation of various company rules as indicated in Mr. B. M. Brown's letter of April 21, 1989 was simply too severe in light of the fact that Mr. Pino's personal record was blemish free until this incident.
2. Mr. Pino is the recipient of discriminatory discipline in light of the fact L. E. Pino, who was charged with the same offense and found in violation of the same rules, received a deferred suspension.
3. The 30 day suspension must be set aside and the claimant must be returned to service immediately and compensated for all time lost.

FINDINGS: This Public Law Board No. 4338 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was notified to attend an investigation in Cheyenne, Wyoming on March 31, 1989 in connection with his responsibility, if any, with the alleged false injury report filed by Jake Pino on July 30, 1987 while working at Tipton, Wyoming, and the claimant's alleged involvement, including conspiracy to cover up the facts, horseplay and use of illegal drugs while subject to duty.

The transcript contains 54 pagew of testimony, all of which has been studied and considered.

The evidence indicates the claimant, Greg Pino, his cousin L. E. Pino, and Robert Jarmillo conspired to cover up the fact regarding how the injury occurred to the claimant's brother, J. Pino. The evidence is sufficient for Carrier to find the claimant guilty of the charges preferred.

There is no justification to set the discipline aside.

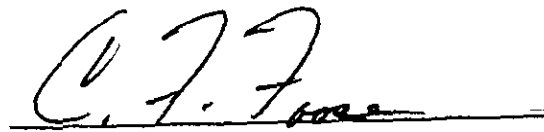
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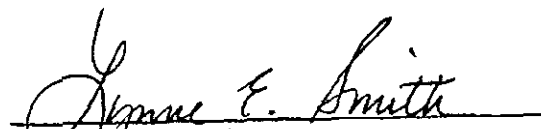
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AWARD: Claim denied.
Dated: July 14, 1989.


Preston J. Moore, Chairman


Union Member


Carrier Member