

PUBLIC LAW BOARD NO. 4775

Award No. 11

UTU Case S524-528-83

CNW File 2-88-524

Parties to dispute:

United Transportation Union

and

Chicago and North Western  
Transportation Company

Statement of claim:

Claim of Conductor J. N. Carter, Suburban Division, for reinstatement to the services of the Chicago and North Western Transportation Company, with vacation and seniority rights unimpaired, in addition to the payment of any and all health and welfare benefits until reinstated, and that he be compensated for any and all lost time, including time spent attending an investigation held on November 11, 1987, at Chicago, when charged with responsibility for his failure to comply with Rule G and Rule G (Addition), as contained in Part 3 of Suburban Division General Order No. 1, effective 12:01 a.m., January 1, 1987, while he was employed as Collector on Train No. 3010, Crew 37, Job 7237 on October 22, 1987.

Opinion of Board:

Claimant was a member of a crew which was involved in an accident. The train on which he worked backed into another train. He and others were taken for tests under FRA drug and alcohol testing procedures.

We are told that the urine and blood samples, because of a faulty chain of custody, were not progressed to test. We do not know further details.

Claimant was given a breath test, shown positive at .05. The first was completed at 4:40 and the second started at 4:48. The FRA guideline says:

"If an initial test is positive, the employee shall be tested again after the expiration of a period of not less than 15 minutes, in order to confirm that the test has properly measured the alcohol content of deep lung air."

Obviously the regulations were not complied with.

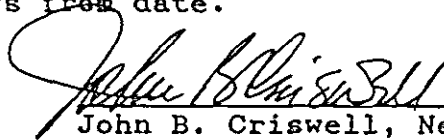
Findings:

That the Agreement was violated.

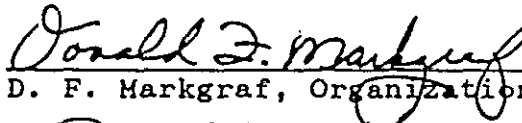
Award:

Claim sustained.

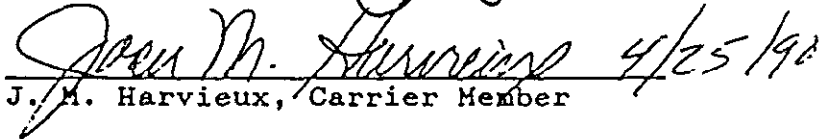
Dated this 15th day of March, 1990, at Chicago IL.  
Carrier is directed to make this Award effective on  
or before 30 days from date.



John B. Criswell, Neutral Member



D. F. Markgraf, Organization Member

 4/25/90

J. M. Harvieux, Carrier Member