

AWARD NO. 13

Case No. 13

PUBLIC LAW BOARD NO. 4823

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

STATEMENT OF CLAIM:

"1. That the Carrier's decision to remove Illinois Division Trackman Calvin Tibbs from service was unjust.

2. That the Carrier reinstate Claimant Tibbs with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held January 12, 1990, continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable (sic.) evidence that proved that the Claimant violated the rules enumerated in their decision, and even if Claimant violated the rules enumerated in the decision, permanent removal from service is extreme and harsh discipline under the circumstances."

FINDINGS:

This Public Law Board No. 4823 finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

On December 29, 1989, Carrier's Division Manager wrote the claimant notifying him of formal investigation to be held concerning the claimant's alleged failure to comply with instructions of Carrier's Medical Director in possible violation of General Rules B and C and Rule 1000 of Carrier's Safety and General Rules for All Employees.

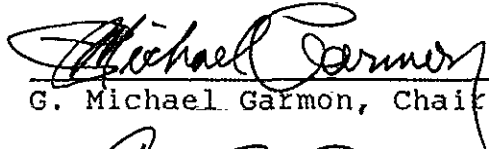
Following the formal investigation Carrier found the claimant responsible for violation of the rules cited and he was removed from service as a result thereof.

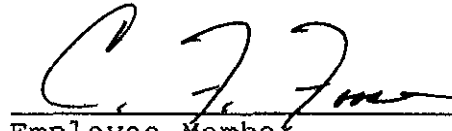
The formal investigation developed that the claimant was instructed by Carrier's Medical Director (Dr. Khuri) to provide a supervised urine specimen free of all illegal drugs (and particularly cocaine) within 90 days. Claimant failed to comply with these instructions, and he testified "I have nothing to say about the letters that Dr. Khuri sent me. I received them and they read as I read them."

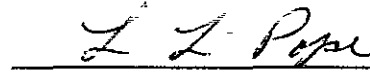
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Under the circumstances of this particular case and in view of the serious nature of the violation, the claimant's removal from service was entirely appropriate.

AWARD: Claim denied.


G. Michael Garmon, Chairman


Employee Member


Carrier Member

Dated at Chicago, IL

May 14, 1990