

PUBLIC LAW BOARD NO. 5345

Award No. 2

BLE File No. 71-5645-D

Carrier File No. BLE92-7

Parties: Brotherhood of Locomotive Engineers  
to and  
Dispute Southern Pacific Transportation Lines  
St. Louis Southwestern Railway Lines

Statement

of Claim: The employees respectfully request the personal record of Engineer T. L. Null be expunged as per Carrier's letter of January 31, 1992 and that he be returned to service from which withheld with full seniority rights and with full pay for time lost, including vacation credits, plus any and all expenses resulting from the investigation and dismissal from the first date of lost service up to the date he is allowed to assume service.

Findings: The Board has jurisdiction by reason of the parties Agreement establishing the Board therefor.

Engineer B. R. Null, the father of the Claimant, Engineer T. L. Null, on August 11, 1991 took a call from the Caller's office on behalf of his son and when he was unable to contact his son worked the trip in his son's place without permission of Carrier.

The Claimant was notified to attend a formal investigation in connection therewith. As a result thereof the Carrier concluded therefrom that Claimant was culpable. He was dismissed from service as discipline therefor.

As a result of the first appeal it was agreed that the Claimant was to be returned to service without pay. He was, of course, subject to a return to duty physical examination, including a drug screen, and rules recertification.

After the Claimant reported to the designated lab for his urine specimen, on December 18, 1991, the drug screen showed positive for cocaine.

The Claimant was notified to attend a formal investigation on a charge of a Rule G violation in connection with the cocaine incident. The investigation was postponed until and held on January 27, 1992. The Claimant was notified that the Carrier concluded that he was culpable of the charge. He was dismissed from service on January 31, 1992 for the alleged use of cocaine. He was concomitantly

to meet with the Employee Assistance counselor within five days which he failed to do.

Appeal was made to the Superintendent on March 2, 1992 and a request was made for a conference thereon. The Superintendent did not set a date for conference nor did the Superintendent respond to the appeal. A second appeal was made on May 11, 1992 and denied on July 9, 1992.

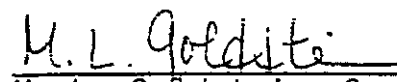
Like Award No. 1 this case must also be conditionally sustained for the procedural failure to meet thereafter and deny the claim at the local level. The Board finds that the portion of the claim reading "plus any and all expenses resulting from the investigation and dismissal" etc. or similar phrases, that portion of the claim is not sustained unless that quoted portion results from a rule in the agreement.


The nature of the Claimant's offense and the recognition of the FRA Regulations of Engineer's skills impels our Board to insure that in the best interest of all concerned that the Claimant enters a program of abstinence, that he report to the Employee Assistance Counselor and enter a long period of random alcohol and drug testing. He will, of course, be required to take a return to service physical examination.

Award: Claim sustained as per findings.

Order: Carrier is directed to make this Award effective within thirty (30) days of date of issuance shown below.

  
R. E. Dean, Employee Member

  
M. L. Goldstein, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued September 24, 1993.