

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM: Carrier's decision to remove former Southern Division Trackman A. L. Cartrett from service, effective August 31, 1987, was unjust.

Accordingly, Carrier should be required to reinstate claimant Cartrett to service with his seniority rights unimpaired and compensate him for all wages lost from August 31, 1987.

FINDINGS: This Public Law Board No. 1582 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 Temple, Texas on August 26, 1987 concerning his alleged failure to follow the instructions contained in letters dated March 24, 1987, April 24, 1987 and July 13, 1987 which were issued by Dr. R. K. Khuri, System Medical Director, and the claimant's failure to satisfactorily pass the required medical examination, and to determine the facts and place the responsibility, if any, involving possible violation of Rules 2, 3, 11, 14, 15, 26 and 31B, General Rules for the Guidance of Employees, and Paragraph 6.0, Medical Examinations, Page 7, of Policy of Use of Alcohol and Drugs.

The investigation was postponed and was held on August 28, 1987. Pursuant thereto the claimant was found guilty and was dismissed from the service of the Carrier.

The Board has studied the evidence and testimony of record. The claimant had applied for a signalman position in Fort Worth, Texas on the Northern Division. He took a physical examination, and the urine specimen tested positive for marijuana.

On March 24, 1987 a registered letter was mailed to the claimant advising him that he was required to furnish a negative urine sample within 90 days from the date of receipt of the letter. The letter was returned unclaimed, and on April 24, 1987 another registered letter was mailed to the claimant, stating basically the same information as was contained in the March 24 letter. The claimant signed for this letter on April 27, 1987.

On July 13, 1987 Dr. Khuri wrote another letter to the claimant advising him that on July 26, 1987 his 90 days would expire.


Thereafter, on August 14, 1987 a notice of investigation was mailed to the claimant charging him with failure to comply with Dr. Khuri's instructions.

The claimant testified that he read the letter dated April 24, 1987, and that Dr. Khuri's office called him and told him what the letter meant. He testified he did not have any conversation with Dr. Khuri thereafter during the 90 day period nor did he ask for any extension of time.


The claimant testified that he took a second examination on August 10, 1987. He stated that he just forgot the date and thought he was within the 90 days allowed.

The Board has reviewed all of the testimony and evidence of record and finds there is no justification for setting the discipline of the Carrier aside.

AWARD: Claim denied.


Preston J. Moore, Chairman

*Sated at Chicago, Illinois
August 18, 1988*


Organization Member


Carrier Member