

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. Carrier's decision to remove former Middle Division Trackman Strickland Russell, Jr. from service, effective February 17, 1988, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Russell to service with his seniority rights unimpaired and compensate him for all wages lost from February 17, 1988.

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 instructed to report to Oklahoma City, Oklahoma on January 28, 1988 for an investigation to determine the facts and place the responsibility, if any, with possible violation of Rules 2, 3 and 16 of the General Rules for the Guidance of Employees, 1978, Form 2626 Std., concerning his alleged failure to satisfactorily pass a medical examination.

The claimant testified that he took two or three medical examinations for reinstatement to service. He testified that the first examination was a complete physical, and the other two were strictly urine.

The claimant testified that he received a letter sometime in October which told him he had to take a physical examination, which he took and did not pass, and then he got another letter advising him that he had to pass one within ninety days by December 28, 1987.

The claimant stated that he was given a list of doctors, and he picked out a doctor and went there for an examination but all he had was the urine test. The claimant stated that he signed the seal which was placed upon the bottle. The claimant stated that he received a letter through the mail stating that he did not pass the urine test.

Assistant Division Engineer T. B. Schmidt testified that claimant took three medical examinations. He testified that the first

examination tested positive for THC, which is commonly referred to as marijuana. He testified that the results of the second examination taken on November 25, 1987 also tested positive for THC and PCP. He testified that the results of the third examination of the urine sample taken December 28, 1987 also showed testing positive for THC and PCP. He testified that THC and PCP are controlled substances commonly known as drugs.

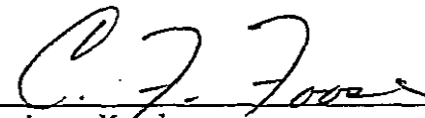
The claimant testified that he had received a letter stating he had ninety days to provide a clear urine sample. He stated he was aware that as an alternative to standing the investigation, he could contact the Employee Assistance Counselor and go under his care.


The Board has reviewed all the testimony of record and finds the Carrier had sufficient and just reasons for the termination of the claimant's employment. Under the circumstance herein there is no justification to set the discipline aside.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

*Dated at Chicago, Illinois  
September 15, 1988*

  
Union Member

  
Carrier Member