

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 Colorado Division Trackman L. R. Benavidez from service, effective May 27, 1988, was unjust.

1. Accordingly, Carrier should be required to reinstate claimant Benavidez to service with his seniority rights unimpaired and compensate him for all wages lost from May 27, 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 had a physical examination and urine drug screen which revealed the presence of marijuana. By letter dated January 6, 1988 Dr. Khuri notified the claimant that if he provided a negative specimen, he would be returned to work.

The claimant was further notified that failure to provide a negative urine specimen within 90 days of receipt of the letter would result in the General Manager being informed, and the claimant's case would be handled as a disciplinary matter.

Again on March 23, 1988 Dr. Khuri advised the claimant that his urine test continued to be positive for marijuana, and his 90 day time limit for providing a negative specimen would end on April 7, 1988.

This letter further stated that if the claimant did not provide a supervised negative urine specimen to Dr. G. N. Vandiver and contact the Employee Assistance Counselor in his area to obtain an evaluation and clearance to return to work by April 7, 1988, the matter would be referred to the General Manager and treated as a disciplinary matter.

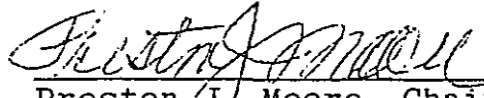
The evidence establishes that the claimant received the letters involved and failed to comply with those directions. A formal investigation was held, and the claimant was dismissed from the service of the Carrier.

The Union has raised several issues which were studied and considered by the Board.

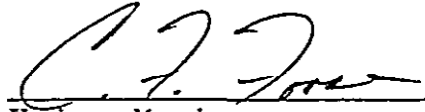
The claimant was properly notified and had every opportunity to be reinstated. Dr. Khuri was not a necessary witness, and there was no additional information which Dr. Khuri could provide which would have been either beneficial or detrimental to the claimant.

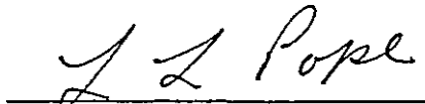
After reviewing all the evidence and exhibits submitted by the parties, the Board finds there is no justification to set the discipline aside.

AWARD: Claim denied.


Preston J. Moore, Chairman

Dated at Chicago, Illinois
November 30, 1988


Union Member


Carrier Member