

PUBLIC LAW BOARD NO. 1582

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

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Kansas Division Trackman D. A. Jackson from service was unjust.
2. That the Carrier now reinstate Claimant Jackson with seniority, vacation, all benefit rights unimpaired and pay for all wage loss as a result of investigation held February 21, 1990, continuing forward and/or otherwise made whole, because the Carrier did not introduce substantial, creditable 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. 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 on February 21, 1990 in Newton, Kansas. The investigation was being held to develop the facts and place the claimant's responsibility, if any, in connection with possible violation of Rules C, 1000, 1020 and 1026, Safety and General Rules for All Employees, Form 2629 Std. concerning his alleged failure to comply with written instructions from Dr. Khuri, System Medical Director, dated November 1, 1989 and January 8, 1990.

The claimant was sent the above notification by certified mail but did not attend the investigation.

Assistant Superintendent of Maintenance G. W. Beattie testified there was a letter in the claimant's personnel file dated November 1, 1989 from Dr. Khuri which instructed the claimant to proceed to the office of Dr. V. W. Vogt in Newton, Kansas and provide a supervised urine specimen for testing.

The letter stated that if the specimen showed no evidence of drugs, the claimant would be qualified to work, and if the specimen was positive, the claimant would be medically disqualified from service and would not be able to return to work until he provided a clean urine specimen and obtained an evaluation and clearance to return to work from the Employees Assistance Counselor in his area.

This letter further stated that if the claimant failed to provide a urine specimen within five calendar days of receipt of the letter, he would be medically disqualified from service on the next day. By letter dated January 8, 1990 the claimant was advised that if he did not proceed to submit to a urine drug screen within five calendar days after receipt of that letter, the Medical Director was required to notify the General Manager, and his case would then be handled as a disciplinary matter.

By letter dated January 26, 1990 Dr. Khuri, Medical Director, notified the General Manager that the claimant had been medically disqualified for failure to provide a urine drug specimen within the time frame required.


It is noted there was a certified mail receipt for the notice to the claimant of the investigation. The letters of Dr. Khuri and the certified receipt were introduced into evidence.

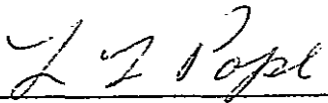
The Board has reviewed all of the evidence and finds there is no justification to set the decision of the Carrier aside.

AWARD: Claim denied.

*Dated at Chicago, Illinois
April 30, 1990*


Preston J. Moore, Chairman


Union Member


Carrier Member