

PUBLIC LAW BOARD NO. 2439

Award No. 151
Case No. 151

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Southern Pacific Transportation Company (Western Lines)

STATEMENT
OF CLAIM:

"That the Carrier violated the Current Agreement when it dismissed Mr. R. M. Raynor from its service, said action being excessive, unduly harsh and an abuse of discretion.

"That the Carrier reinstate Mr. R. M. Raynor to his former Carrier position with seniority and all other rights restored unimpaired, with pay for all loss of earnings suffered, and his record cleared of all charges."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

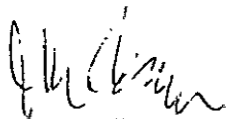
Claimant entered Carrier's service on April 3, 1986. Subsequently he was furloughed. Upon being recalled prior to returning to service from his furlough he was required to take a physical examination. In the course of that physical examination he was found to test positive for cocaine. Subsequently a formal hearing was held on April 24, 1987 and on the basis of the evidence adduced at the hearing Carrier was convinced that Claimant was in violation of Rule G and was thereafter on May 11, 1987 dismissed from service.

An examination of the transcript on the investigation reveals that there was significant evidence based on laboratory reports showing that the presence of cocaine had been confirmed. Further the record indicates that since Claimant's dismissal in 1987 he has refused to participate in the Employee Assistance Program. Participation in that Program might result in favorable consideration for reinstatement by Carrier. In this instance his failure to participate in the Program negated that possibility.

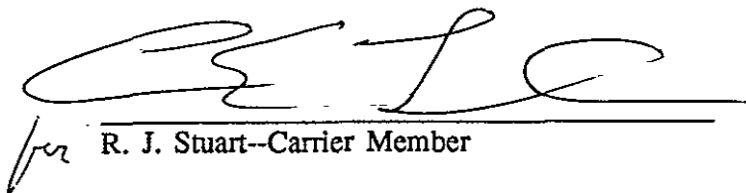
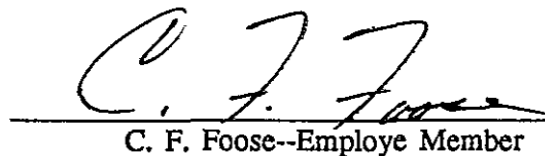
The investigation and the record herein reveals that there was no question but that Claimant was in violation of Rule G based on the cocaine finding and therefore Carrier's conclusion to terminate him was justified. The Claim must be denied.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman


for R. J. Stuart--Carrier Member
C. F. Foose--Employe Member

San Francisco, California
August 31, 1989