

Award No. 110
Case No. 110

PUBLIC LAW BOARD NO. 4244

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

STATEMENT OF CLAIM: Carrier's decision to remove former Group 11 System Steel Gang Trackman S. N. Lee from service, effective August 21, 1992, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Lee to service with his seniority rights unimpaired and compensate him for all wages lost from August 21, 1992.

FINDINGS: This Public Law Board No. 4244 (the "Board") finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended. Further, the Board has jurisdiction over the parties and the subject matter involved.

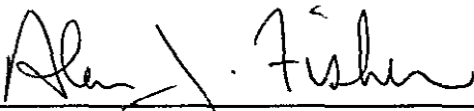
The record shows that on October 17, 1990, former Group 11 System Steel Gang Trackman S. N. Lee (the "Claimant") reported for duty under the influence of alcoholic beverages in violation of Rule G. The Claimant waived his rights to an investigation and accepted a 270 day suspension which required his participation in the Carrier's Employee Assistance Program ("EAP") and his compliance with all instructions issued to him by the EAP Counselor. If he failed to comply with the instructions or the conditions of the program, the suspension would automatically convert to a dismissal. The Claimant agreed to the terms of the conditional suspension on November 16, 1990.

The record further shows that in a letter dated August 21, 1991, EAP Counselor J. L. Harrell informed the Claimant that the Carrier had been advised that the Claimant was no longer participating in any type of alcohol rehabilitation and therefore in violation of his conditional suspension. The Claimant was further advised to contact Harrell within 14 days of the date of the letter to discuss the matter. The Claimant did not contact Harrell, and he was later advised that his seniority and termination were terminated.

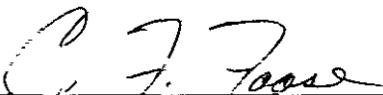
It is clear from the record that the Claimant violated Rule G, and he was given the opportunity to participate in an alcohol rehabilitation program. Further, the Claimant acknowledged that he could return to Carrier service if he successfully completed the conditions of his rehabilitation. The evidence shows that the Claimant failed to meet the conditions, and accordingly, the Carrier properly removed him from service.

Last, the Claimant received a fair and impartial investigation, and there was no violation of any agreement between the parties.

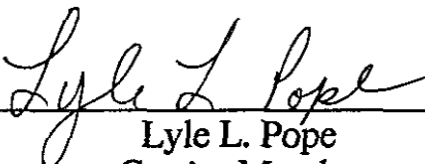
AWARD: Claim denied.



Alan J. Fisher
Chairman and Neutral Member



C. F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: December 27, 1993
Schaumburg, Illinois