

Award No. 111
Case No. 111

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 Central Region Trackman B. E. Brinkley from service, effective September 11, 1992, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Brinkley to service with his seniority rights unimpaired and compensate him for all wages lost from September 11, 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.

In summary, the record shows that former Central Region Trackman B. E. Brinkley (the "Claimant") tested positive for drugs in October and December 1989. He was then medically disqualified from Carrier service, evaluated by J. L. Harrell, one of the Carrier's Employee Assistance Program ("EAP") Counselor, and referred to a treatment facility for chemical dependency in January 1990. He was returned to Carrier service in 1990.

On August 31, 1992, the Claimant was required to take a physical examination and drug screen test. The test results revealed that the Claimant tested positive for marijuana. On September 13, 1992, Medical Director Dr. Raja K. Khuri, M.D., informed Carrier officials by letter with a copy to the Claimant that the Claimant tested positive again and that he was in violation of Rule 9.0 of the Carrier's Policy on Use of Alcohol and Drugs. Rule 9.0 of the policy, which became effective on March 1, 1991, provides that if an employee tested positive for illegal drugs a second time within a ten (10) year period he would be subject to dismissal from service.

4244

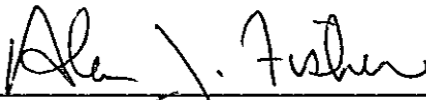
Award No. 111

Page No. 2


It is clear from the evidence of record that the Claimant violated Rule 9.0. In 1991, the Claimant was advised of the Carrier's policy on the use of alcohol and drugs, and on August 31, 1992, he tested positive for drugs for the third time since 1990. The Carrier's decision to remove the Claimant from service was proper because the Claimant failed to comply with the terms of the policy. Also, see Award Nos. 104, 105, and 107.

Last, there was no violation of any agreement between the parties in the handling of this matter.

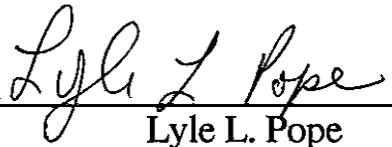
AWARD: Claim denied.



Alan J. Fisher
Chairman and Neutral Member



C. F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: December 27, 1993
Schaumburg, Illinois