

Award No. 118
Case No. 120

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 Southern Region Trackman D. V. Rosier from service, effective December 30, 1992, was unjust.

Accordingly, Carrier should be required to reinstate Claimant Rosier to service with his seniority rights unimpaired and compensate him for all wages lost from December 30, 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 in a letter dated August 19, 1992, former Southern Region Trackman D. V. Rosier (the "Claimant") was placed on a medical leave of absence for providing a positive drug screen. He was returned to service by letter dated October 8, 1992, from Carrier Medical Director Raja K. Khuri, M.D., and advised that as a result of his positive test he would be subject to periodic testing for the next two years. He was further advised that if he provided a second positive sample within a ten year period he would be removed from service.

The Claimant was again advised by the Carrier in a letter dated December 4, 1992, that he was subject to periodic urine drug screening, and that a second positive drug screen would subject him to dismissal for his failure to follow instructions. On December 17, 1992, the Claimant provided a sample for testing and his urine drug screen tested positive for an illegal substance. Thus, in a letter dated December 30, 1992, the Claimant was advised that his seniority and employment with the Carrier were terminated for his violation of Rule 9.0 of the Carrier's Policy on Use of Alcohol and Drugs.

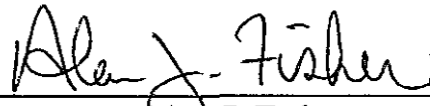
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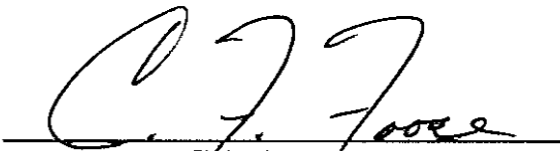
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Based on the record and consistent with prior awards rendered by the Board, the Board finds that the Claimant's removal from service was appropriate. Rule 9.0 provides: "Any one or more of the following conditions will subject employees to dismissal for failure to obey instructions: (a) A repeat positive urine test for controlled substances obtained under any circumstances. Those employees who have tested positive in the past ten (10) years would be subject to dismissal whenever they test positive a second time." Furthermore, contrary to the Organization's position, the Board finds that there was no violation of any agreement between the parties in the handling of this matter.

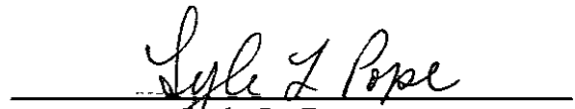
AWARD: Claim denied.



Alan J. Fisher
Chairman and Neutral Member



C. F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: March 1, 1994
Schaumburg, Illinois