

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 Western Region Trackman J. Clemens from service, effective July 27, 1993, was unjust.

Accordingly, Carrier should be required to reinstate the claimant to service with his seniority rights unimpaired and compensate him for all wages lost from July 27, 1993.

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 December 30, 1993, former Western Region Trackman J. Clemens (the "Claimant") was placed on a medical leave of absence after providing a positive drug screen. He was returned to service by letter dated February 9, 1993, 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 drug 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. On July 13, 1993, the Claimant submitted a sample for testing and his urine drug screen tested positive for an illegal substance. Thus, in a letter dated July 30, 1993, 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.

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

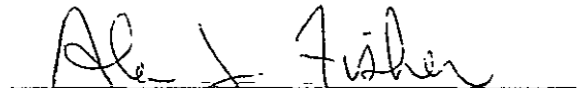
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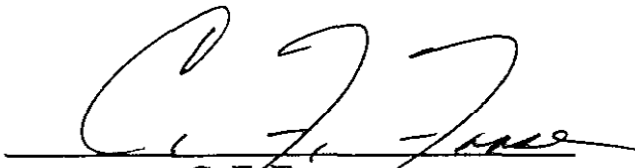
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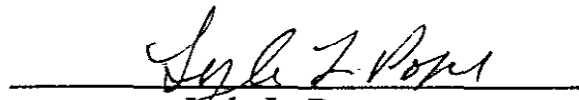
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tested positive in the past ten (10) years would be subject to dismissal whenever they test positive a second time." Last, contrary to the Organization's position, the Board finds that there was no violation of any agreement between the parties in the handling of this matter.

AWARD: Claim denied.


Alan J. Fisher
Chairman and Neutral Member


C. F. Foose
Organization Member


Kyle L. Pope
Carrier Member

Dated: May 24, 1996
Schaumburg, Illinois