

Award No. 174
Case No. 179

PUBLIC LAW BOARD NO. 4244

**ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.
AND
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

STATEMENT OF CLAIM: Carrier's decision to remove former Western Region Seniority District No. 2 Trackman G. E. Olvera from service, effective February 23, 1995, was unjust.

Accordingly, Carrier should now be required to reinstate the claimant to service with his seniority rights unimpaired and compensate him for all wages lost from February 23, 1995.

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 February 6, 1995, former Trackman G. E. Olvera (the "Claimant") participated in a random drug screen test which revealed the presence of amphetamines. Previously, in November 1994, Claimant was placed on medical leave of absence for testing positive for the presence of a controlled substance. When he was returned to service on December 8, 1994, he was advised that he would be subject to periodic testing for the next two years. Accordingly, as a result of the second positive drug screen, the Carrier determined that the Claimant violated Rule 12.0 (formerly Rule 9.0) of Santa Fe Policy on Use of Alcohol and Drugs, January 1, 1995 edition, and he was dismissed from service.

It is clear from the record that Claimant violated Rule 12.0 when he provided a positive drug sample. According to the Carrier's policy, an employee may be dismissed from service after testing positive for controlled substances or alcohol twice within a ten-year period.

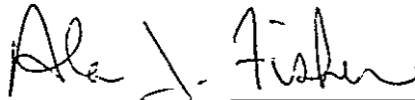
The Claimant's positive drug screen of February 6, 1995, was the Claimant's second offense. Hence, his removal from service was not excessive under the circumstances of this case.

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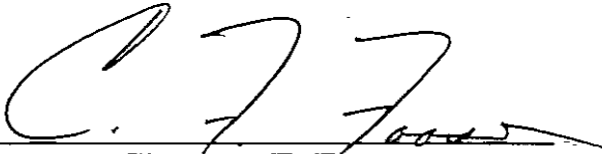
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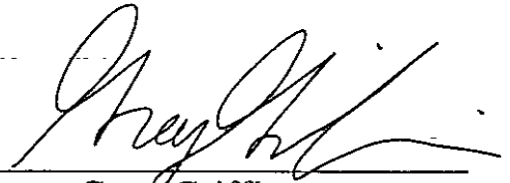
AWARD: Claim denied.



Alan J. Fisher
Chairman and Neutral Member



Clarence F. Foose
Organization Member



Greg Griffin
Carrier Member

Dated: _____

2/15/96

Schaumburg, Illinois