

Award No. 175
Case No. 180

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 Central Region, Seniority District No. 1 Trackman J. A. Ortiz from service, effective February 27, 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 27, 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 June 26, 1987, former Trackman J. A. Ortiz (the "Claimant") was placed on medical leave of absence for providing a drug screen which indicated the presence of a controlled substance, marijuana. When the Claimant returned to service, he was advised that he would be subject to periodic testing for the next two years. He was further advised that if he provided a second positive drug screen within a 10 year period, he would be removed from service.

The record further shows that on February 8, 1995, the Claimant was observed by three Carrier officials who determined that the Claimant acting in a manner which indicated a reasonable suspicion of drug and/or alcohol intoxication. Thus, the Claimant was administered a breath alcohol test which indicated a concentration of alcohol far exceeding acceptable limits, and he was requested to provide a drug screen, which tested positive for the presence of cocaine. As a result of the positive alcohol and drug screens, the Carrier determined that the Claimant violated Rule 12.0 (formerly Rule 9.0) of the Santa Fe Policy on Use of Alcohol and Drugs, January 1, 1995. Thus, in a letter dated February 27, 1995, the Claimant was advised that his seniority and employment were terminated for his violation of Rule 12.

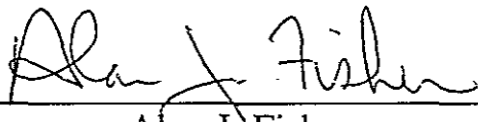
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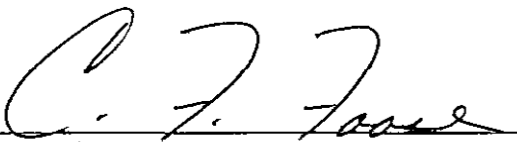
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It is clear from the record that on February 8, 1995, the Claimant tested positive for a controlled substance for the second time within ten years and that he reported for duty under the influence of alcohol. It is also clear from the record that the Claimant violated Rule 12.0 of the Carrier's drug and alcohol use policy in this matter. Accordingly, the Claimant's removal from service was consistent with the established policy, and there is no basis to set aside the discipline.

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