

Award No. 32
Case No. 33

PUBLIC LAW BOARD NO. 4244

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
TO) AND
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: Carrier's decision to remove former Southern Division Trackman J. P. White from service, effective September 26, 1988, was unjust.

Accordingly, Carrier should be required to reinstate Claimant White to service with his seniority rights unimpaired and compensate him for all wages lost from September 26, 1988.

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 this dispute former Southern Division Trackman J. P. White (the "Claimant") was removed from Carrier's service on September 22, 1987, as a result of a formal investigation held that date, for violation of Rules 1, 2 and 6 of the Carrier's General Rules for the Guidance of Employees. It was determined at the investigation that he reported for duty under the influence of alcohol on the morning of September 1, 1987.

On April 25, 1988, the Claimant was reinstated to service on a leniency basis subject to certain conditions. These conditions included the provisions that the Claimant would abide by the Carrier's rules regarding the use of alcoholic beverages, and that he attend 12 Alcoholics Anonymous ("AA") meetings per month and submit valid documentation of his attendance each month for two years. The conditions further provided that if he failed to comply with the terms of his reinstatement the Claimant would be immediately removed from service without a formal investigation. The Claimant agreed in writing to the terms and conditions of his reinstatement.

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The record shows that the Claimant returned to the Carrier's service on July 11, 1988. By a certified letter dated August 22, 1988, Carrier's Employee Assistance Program Counselor B. J. Rehberg advised the Claimant of his mandatory attendance at AA meetings on a regular basis and his responsibility to provide the Carrier with valid documentation. However, the Claimant did not respond to Rehberg's letter and failed to provide the Carrier with any evidence of his attendance at AA meetings. Thus, on September 26, 1988, the Carrier wrote the Claimant advising him of his removal from service effective that day for his failure to comply with the provisions of his leniency reinstatement dated April 25, 1988.

Based upon a review of the entire record the Board finds that the discipline assessed the Claimant was appropriate. The Claimant agreed to the leniency reinstatement which provided that he attend AA meetings regularly and submit proof of his attendance. As previously noted, the leniency reinstatement clearly stated that the Claimant's failure to comply with the terms and conditions of the reinstatement would result in his immediate removal from service without a formal investigation.

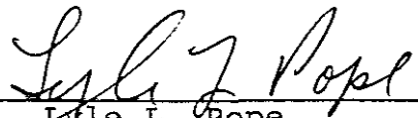
AWARD: Claim denied.



Alan J. Fisher, Chairman
and Neutral Member



Clarence F. Foose
Organization Member



Lyle L. Pope
Carrier Member

Dated: May 26, 1989
Chicago, Illinois